

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL A. LA PORTA, as Guardian)
of the estate and person of)
Michael D. LaPorta, a disabled)
person,
Plaintiff,
v.) No. 14 CV 09665
CITY OF CHICAGO, a municipal)
corporation, et al.,) Chicago, Illinois
Defendants.) October 2, 2017
) 10:00 a.m.

VOLUME 1
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HARRY D. LEINENWEBER

12 || APPEARANCES:

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20 ALSO PRESENT: MR. WILL DICKENSON,
21
22 MR. ANTHONY MONACO.

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24
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1 (Proceedings heard in open court:)

2 THE CLERK: 14 C 966 5, LaPorta versus City of
3 Chicago.

4 THE COURT: Please be seated, everybody.

5 Are we ready for trial? We've got some pretrial
6 motions that we have to take up. Do you want to put your
7 appearances on file?

8 MS. ROSEN: Eileen Rosen on behalf of defendant City
9 of Chicago.

10 MS. BENJAMIN: Stacy Benjamin for defendant City of
11 Chicago.

12 MR. NOVY: James Novy for defendant City of Chicago.

13 MS. CARNEY: Theresa Carney on behalf of defendant
14 City of Chicago.

15 MR. BURKE: Robert Burke for defendant Gordon Lounge.

16 MR. ROMANUCCI: Your Honor, Tony Romanucci on behalf
17 of plaintiff.

18 MR. MARASSO: Your Honor, Bruno Marasso on behalf of
19 plaintiff.

20 MR. GOULD: Your Honor, Martin Gould on behalf of
21 plaintiff.

22 MS. WARD: Your Honor, Nicolette Ward on behalf of
23 plaintiff.

24 MS. THOMAS: Your Honor, Debra Thomas on behalf of
25 plaintiff.

1 MR. SALVATO: Your Honor, Carl Salvato on behalf of
2 the plaintiff.

3 THE COURT: All right. We have the first order of
4 business, I think, is going to be the City's motion to stay
5 and certify the question of law for interlocutory appeal and
6 to stay the trial. The defendant -- the plaintiff objects?

7 MR. ROMANUCCI: Yes, your Honor. The plaintiff
8 objects to this motion.

9 THE COURT: All right. I'm going to deny the motion.
10 One of the grounds is timeliness. And although you only got a
11 decision last week, nevertheless, I'm mindful that the motion
12 wasn't fully briefed until this month, and it's -- with all
13 the other motions in limine and so forth, the Court was
14 certainly unable to provide a decision. So it seems to me
15 it's much too late now to delay a trial which has been
16 scheduled for almost a year, I believe. So I'm going to use
17 my discretion to deny the motion, and we will proceed with the
18 trial.

19 Now, there's a motion to enter -- petition for leave
20 to intervene in the case brought by James Morrison and the
21 American Addiction Centers, Inc.

22 MS. ROSS: Good morning, your Honor. Elizabeth Ross
23 on behalf of non-party petitioner, James Morrison.

24 MR. DICKENSON: Good morning, Judge. Will Dickenson
25 on behalf of American Addiction Centers.

1 THE COURT: What -- what role do you wish to play in
2 the case? The case is set for trial this morning.

3 MR. MONACO: Judge, this is Anthony Monaco, and I'm a
4 lawyer involved in another case in state court that has
5 nothing to do with this case. And it's my understanding that
6 the defendants in my other case want discovery materials in
7 this case, so there's confidentiality and protective orders in
8 both cases.

9 As I understand, the trial is about to begin. Until
10 that evidence comes in and what is presented to this Court, I
11 suspect that confidentiality may no longer exist during the
12 trial. So I think it's a bit premature to even get into this.
13 I think today's motion is just for leave to file something
14 under seal. I don't object to that, but I just -- I don't
15 want to taken the Court's --

16 THE COURT: Is that all you're asking for the moment,
17 is to file under seal?

18 MS. ROSS: That is what is noticed for today, your
19 Honor.

20 THE COURT: Is there any objection to that?

21 MR. MONACO: No, Judge.

22 THE COURT: By any --

23 MS. ROSEN: Well, I guess I don't have an objection
24 to the motion for leave to file under seal. I don't know what
25 they're -- what discovery they're seeking, and certainly, I

1 don't think that the parties in this case need to be concerned
2 with dealing with discovery matters in this other case or for
3 another case while we're in the middle of a trial.

4 THE COURT: Mr. Romanucci, what's your position?

5 MR. ROMANUCCI: Your Honor, I don't have any
6 objection to it.

7 THE COURT: Filing under seal?

8 MR. ROMANUCCI: Correct.

9 THE COURT: All right. The motion to file under seal
10 is granted. So we'll just leave the petition sit for the time
11 being, is that --

12 MR. ROMANUCCI: Yes, Judge.

13 THE COURT: -- and see how the trial comes out?

14 MS. ROSS: Actually, your Honor, we would like, we
15 also -- and we would don't mean to inconvenience the Court,
16 especially at this time. Our motion seeks information and
17 documents that would not interfere with the trial schedule.
18 We're just seeking documents that have already been tendered
19 to plaintiff in this trial. And so we're just seeking that
20 same information.

21 Plaintiff in this trial actually has intervened in
22 our case in the state court case, so it's not quite accurate
23 that there are no overlapping issues.

24 THE COURT: Well, is there any prejudice to you of
25 having to wait until the case is over? I mean, it seems to me

1 that I don't want to be involved in trying to determine
2 confidentiality issues other than what pertains precisely to
3 this trial. Now, if the document comes into evidence in this
4 trial, it seems to me that clearly, it's in the public domain.

5 So but -- you know, if you're seeking to require work
6 from me and from my -- I presume counsel during the course of
7 the trial and they're otherwise preoccupied, it seems to me,
8 unless there's some overarching prejudice to you by waiting --

9 MR. MONACO: Judge, the problem is now she's arguing
10 the substance of whether she can intervene on a motion I've
11 not even seen yet. She wants to file it under seal. So there
12 will be absolutely no prejudice to wait. And I don't think
13 it's appropriate to take up the Court's time at this point.
14 Once I see her motion to intervene, I may not even object. I
15 may. But I haven't even seen the motion yet. So today's
16 hearing was to -- for leave to file a petition under seal.

17 THE COURT: All right. It's now filed under seal
18 without objection from either side, and we will take it up at
19 some time in the future.

20 MS. ROSEN: Judge, there's one thing I want to raise.
21 It's my understanding just based on defense counsel's argument
22 that the plaintiff's attorney in this case, Mr. Romanucci,
23 intervened and obtained materials in their case which, having
24 just general understanding of what that lawsuit is about, we
25 were never provided any documents that he obtained.

1 The documents have to do with Jason Doe who plaintiff
2 has argued in this court is Pat Kelly. And to the extent that
3 there is information related to Pat Kelly and whether or not
4 he was actually the shooter or whether Mikey LaPorta was the
5 shooter goes to our defense so --

6 THE COURT: It seems to me, over a year ago an issue
7 similar to this was raised.

8 MR. ROMANUCCI: True.

9 THE COURT: And I don't remember in what the context
10 was and what the result was.

11 MR. ROMANUCCI: So by history --

12 THE COURT: There was a courtroom full of lawyers.

13 MR. ROMANUCCI: Right.

14 THE COURT: I remember that.

15 MR. ROMANUCCI: So if I may, your Honor, by history,
16 if my memory is accurate, we came to you asking for consent to
17 intervene in the state court case. You advised us and you
18 issued an order that it would not be appropriate for you to
19 order something for the state court to do, so we went to the
20 state court asking permission to intervene in that case, and
21 we did. We were given leave to intervene in that case.

22 And in terms of the documents that we received that
23 we feel are germane and relevant to this case, it's only one
24 document, and that's the complaint that was filed by Jason Doe
25 in that case against the American Addiction Centers. And that

1 is the only document that we purport to have which would be
2 used in this case.

3 THE COURT: Did you turn that over to defense?

4 MS. ROSEN: Well, if I could --

5 MR. ROMANUCCI: They have that. They absolutely have
6 that document. It's been turned over.

7 MS. ROSEN: The complaint?

8 MR. ROMANUCCI: Yes.

9 MS. ROSEN: Correct. Is that the only -- I guess
10 what I'm not clear on is if that's the only document that they
11 obtained.

12 MR. ROMANUCCI: Yes, sir.

13 THE COURT: That's what he just said. He's an
14 officer of the court, so I certainly will believe him unless
15 somebody can prove otherwise.

16 MS. ROSEN: No, no, no. All I'm saying is what I
17 heard --

18 THE COURT: Yes. That's what I heard him say.

19 MS. ROSEN: The clarification is that what he thought
20 was germane to this case. So as long as the representation is
21 that the only documents he obtained from the state court
22 litigation was the complaint, the only documents, whether
23 germane or not, then we don't have a problem.

24 THE COURT: That's correct, is it not?

25 MR. ROMANUCCI: Correct, your Honor.

1 THE COURT: All right. So we -- I have granted the
2 motion to file under seal. We'll take up the issue of the
3 actual intervention at a later date. Okay. Thank you.

4 MS. ROSS: Thanks, your Honor.

5 MR. MONACO: Thanks, your Honor.

6 THE COURT: Okay. The next order of business would
7 be the ruling on the motions in limine, and I will --
8 substantial ones, so listen closely. There was -- we'll take
9 the plaintiff's first.

10 The omnibus motion in limine was 1 through 6 and then
11 a motion to exclude non-party witnesses from the courtroom, 7.
12 And those were not objected to and are granted to the extent
13 they're relevant and they apply to both cases.

14 No. 9 was a motion to exclude LaPorta's failure to
15 pay income taxes. My -- this will be granted in part and
16 denied in part. The information to the extent that it's
17 relevant on cross-examination to his wage loss claim, the
18 motion will be denied. However, the motion is granted to the
19 extent that there's an allegation that the conduct amounted to
20 tax fraud. Leave that out of the case, any potential tax
21 fraud allegations.

22 No. 10, motion to exclude allegations of prejudice
23 regarding the delay informing the City of LaPorta's ability to
24 speak. It's denied as it may be relevant to the argument that
25 the City may make as to the cause of delay in the

1 investigation as alleged by the plaintiff.

2 No. 11, motion to exclude the fight with
3 Mr. LaPorta's father, that's granted. In the Court's opinion,
4 that is not relevant to the case and is prejudicial.

5 12, motion to exclude testimony regarding insurance
6 coverage, that's granted. It did not appear to the Court that
7 that's relevant.

8 13, the 2002 citation against Mr. Kelly for fighting
9 by agreement, that's been already excluded by the Court, so
10 that motion is denied.

11 14, evidence of exclusion of evidence of previous
12 cervical injury is denied as it may be gone into in
13 cross-examination of plaintiff's medical expert.

14 15, James Caruso, that's granted without objection.

15 16, LaPorta's past use of alcohol and prescription
16 drugs, that's granted but subject to review as to possible use
17 in cross-examination of plaintiff's medical witnesses. It may
18 be relevant to that. The Court is unable at this point to
19 make a clear determination on that.

20 17, exclude references to Michael LaPorta's alleged
21 suicide attempt and to the diagnosis, lay diagnosis of
22 depression. That's granted except to the extent that
23 plaintiff opens the door by introducing lay testimony that he
24 was not depressed.

25 18 is granted by agreement.

1 19 is granted to the extent that the City argues
2 pecuniary interest of the City would be harmed by liability
3 due to actions of off-duty police officers, but it's denied to
4 the extent that it would prevent the City from arguing its
5 defense that it was not responsible for officers who are off
6 duty. That is, if the plaintiff has not proved its *Mone11*
7 claim, the City certainly can argue that it hadn't proved its
8 *Mone11* claim. If he doesn't prove the *Mone11* claim, then it
9 certainly is arguable that it's not liable for the actions of
10 off-duty police officers.

11 20 which seeks to prevent the City from denying the
12 existence of a code of silence, it's denied. The mayor's
13 statements to the contrary are admissible but they are not
14 preclusive.

15 21, admissibility of police accountability task force
16 report and Department of Justice report, that's granted as to
17 the documents in general. However, it's denied as to relevant
18 portions. In other words, we're not going to give the jury
19 the entire documents, but those portions which may have some
20 relevance to this case, findings of fact that have any
21 relevance in this case would certainly be admissible pursuant
22 to the exception to the hearsay rule. See the summary
23 judgment ruling. I think it was at Page 41 and 42.

24 The mayor's public statements regarding the code of
25 silence, this is granted as an admission on behalf of the City

1 and, therefore, is not hearsay.

2 23, which is motion to exclude evidence of Michael
3 LaPorta's purported blood alcohol content, it's denied as to
4 the extent that it can possibly be used on cross-examination
5 of plaintiff's expert witnesses if relevant. Otherwise, the
6 defendant, the City would need an expert of its own to show
7 whatever value it has.

8 24, regarding text messages, the text messages to --
9 can be used in cross-examining Julie Sandy. The rest will be
10 excluded unless the City can establish specific relevance of a
11 particular text message.

12 25, to bar Jeffrey Noble's opinions regarding
13 legislative intent, that's granted -- it's denied to the
14 extent that plaintiff seeks to prevent him opining that, in
15 his opinion, the City is constrained by state law from
16 investigating complaints which are not started by an
17 affidavit. He, however, cannot testify as to legislative
18 intent, but he can testify to his understanding of state law.

19 26, seeking to bar testimony of Aaron Brudenell as
20 cumulative. Denied at this time as the City has not decided
21 who to call and, since he is a rebuttal witness, he would be
22 limited to rebut plaintiff's witnesses.

23 27, to bar Dr. Heilbronner, that's denied. He may be
24 allowed to testify on memory and perception if he can do so
25 within a reasonable degree of certainty.

1 28, to bar Dr. Lazar re. life expectancy, denied if
2 he can do so to a reasonable degree of certainty.

3 29, to bar Barton Epstein re. blood splatter, denied
4 as he is a rebuttal witness. And I would need to hear what
5 plaintiff's expert says and to determine whether or not,
6 whatever his testimony would be, would be proper rebuttal.

7 30, to bar Judith Roberts' testimony, denied since
8 she is a rebuttal witness to plaintiff's statistician.
9 However, she may not testify as to her understanding of police
10 practices, which plaintiff was concerned about and raised.

11 Now, the defense's motions in limine, 1 through 25.
12 Motion to bar Dr. Edward Rothman from testifying. Plaintiff
13 agrees that Dr. Rothman is not qualified as a police
14 procedures and policy expert. He does not intend to elicit
15 testimony from Dr. Rothman on qualitative conclusions
16 regarding the validity of complaints.

17 The motion is denied. A *Moneill* plaintiff may
18 introduce expert testimony of a statistician to analyze the
19 frequency of citizen complaints without expertise in police
20 practices. The City's criticisms regarding what Rothman
21 reviewed go to the weight to be given his testimony and are an
22 appropriate basis for cross-examination but not for exclusion.
23 That's *Simmons versus City of Chicago*. Similarly, his data
24 and methodology are not irrelevant or unreliable merely
25 because they encompass 2004 to 2016, as it was precisely in

1 the middle of that range when plaintiff's injury arose. See
2 *Ruiz-Cortez versus City of Chicago*.

3 The Court reserves the right to exclude Dr. Rothman's
4 testimony on matters about which he lacks requisite
5 qualifications or did not review data, including how CPD's
6 rate of sustained CRs compares to other jurisdictions', what
7 constitutes meaningful discipline for a police officer, the
8 efficacy of Chicago Police Department's discipline and
9 practices, and how investigations are conducted, etcetera.

10 Motion to bar certain opinions of Lou Reiter.

11 Mr. Reiter is an expert in police procedures who has lectured
12 and published on domestic violence, is qualified to give
13 opinions on domestic violence. That's granted in part.

14 Mr. Reiter may testify as to matters of domestic violence --
15 see *Cazares versus Frugoli* -- permitting Reiter to testify on
16 past failures to investigate and arrest an off-duty officer
17 for criminal offenses about which he has expertise.

18 However, he may not testify that the code of silence
19 or the Chicago Police Department's failures were the proximate
20 cause of Kelly's actions. Mr. Reiter may testify about the
21 reasonableness of officers' conduct and any egregious
22 deficiencies in Chicago Police Department practices so long as
23 they are tethered to professional standards the Chicago Police
24 Department promulgates or that are adhered to in comparable
25 departments.

1 Reiter may also rely on the police accountability
2 task force report because of its admissibility. See the
3 comments on summary judgment 41 and 42 and plaintiff's ruling
4 on motion in limine 21. It is the kind of material experts in
5 the police procedures field would reasonably rely on in
6 forming opinions on the subject.

7 Finally, although Reiter may not testify as to
8 Kelly's subjective motivations, he may testify as to
9 observations based on his vast experience in and knowledge of
10 law enforcement such as, for example, that officers are more
11 likely to commit misconduct under certain circumstances.

12 Motion to bar Mark Perez from testifying. Mr. Perez
13 did not only review Officer Kelly's CRs but also bases his
14 testimony on Chicago Police Department's own policies and
15 procedures as well as on guidelines promulgated by the
16 Department of Justice. He will make no attempt to sort out
17 conflicting testimony or resolve any issues concerning Kelly's
18 credibility.

19 That's granted in part. Mr. Perez may not testify to
20 the effect that deficiencies in the Chicago Police
21 Department's investigations were pursued to the code of
22 silence or otherwise attempt to divine the motives underlying
23 particular investigations, nor may he testify concerning
24 Officer Kelly's individual motivations.

25 However, Mr. Perez may testify as to any deficiencies

1 in the Chicago Police Department's investigations of Officer
2 Kelly or others based on his review of evidence and procedures
3 and his relevant knowledge as an expert, and while he may not
4 testify concerning the proximate cause of Kelly's actions, he
5 may opine on, for example, the likelihood of officer
6 misconduct under certain procedures.

7 Motion to bar Dr. Ziejewski's testimony that LaPorta
8 was unlikely to shoot with his left hand. Dr. Ziejewski is an
9 expert on human body biomechanics and can rely on statements
10 by LaPorta's brother and mother for the basic fact that
11 LaPorta is right-hand dominant.

12 That motion is going to be denied. It was not an
13 unreliable process or methodology for Dr. Ziejewski to ground
14 his premise that LaPorta is right-hand dominant in the
15 statements of people who know LaPorta best. See *Smith versus*
16 *Ford Motor Company*.

17 The City is free to argue to the jury that
18 Dr. Ziejewski should not have relied on LaPorta's brother and
19 mother for the predicate that LaPorta was right-hand dominant.

20 Motion to bar David Balash from testifying.

21 Mr. Balash is qualified to give opinions as to the
22 reasonableness of investigations based on his expertise in
23 forensic science, firearms identification, and crime scene
24 reconstruction. Motion is denied.

25 Mr. Balash has admitted that he is not qualified to

1 offer expert testimony regarding police procedures and
2 practices of the Chicago Police Department detectives, the
3 IPRA, or the State Attorney's office, but to the extent
4 Mr. Balash's opinions implicate such practices with respect to
5 the LaPorta shooting, he only appears to characterize them as
6 flawed based on his own expertise in forensic science.

7 The Court reserves the right to revisit this ruling
8 should Mr. Balash seek to opine more generally on these
9 entities' practices and procedures.

10 Motion to bar Greg Kulis from testifying. The Court
11 has bifurcated the right-of-access claim so that the Court
12 will reserve ruling on that.

13 Motion to bar certain opinions of Wendie Howland,
14 that's granted in part because Ms. Howland is admittedly
15 unqualified on the topic of life expectancy. She may not base
16 her opinion on LaPorta having a normal life expectancy.
17 However, she may use the life expectancy figures properly
18 admitted into evidence such as that provided by plaintiff's
19 qualified life expectancy expert, Dr. Senno.

20 Thus, Ms. Howland's testimony should be modified in
21 accordance with his opinion to reflect an estimated life
22 expectancy for LaPorta based on the expert testimony.

23 The motion to bar Michael LaPorta from testifying at
24 the trial. This is denied. The mere fact that defendant's
25 expert opines that LaPorta lacks the ability to recall what

1 happened on the night in question does not mean that "no one
2 could reasonably believe the witness could have observed,
3 remembered, communicated, or told the truth" as is necessary
4 to justify exclusion under Rule 601. See *U.S. versus Gutman*.

5 Competency of a witness to testify as distinguished
6 from the issue of credibility is a limited threshold decision
7 as to whether a proffered witness is capable of testifying in
8 any meaningful fashion whatsoever. See *U.S. versus Banks*.
9 LaPorta can provide meaningful testimony about what happened
10 on the night in question as he did at depositions and about
11 other relevant issues.

12 Motion to admit Kelly's deposition and bar reference
13 to his Fifth Amendment invocation. That's granted in part
14 because plaintiff has -- had every motivation and opportunity
15 to cross-examine Officer Kelly at his 2012 deposition. The
16 City may offer into evidence his original deposition testimony
17 if indeed he elects to invoke his Fifth Amendment rights when
18 called to the stand. See Rule 804(b)(1). Plaintiff may
19 adduce evidence that Kelly invoked the privilege at his 2016
20 deposition and may impeach Kelly accordingly.

21 In a civil case, an adverse inference may be drawn
22 against a witness who pleads the Fifth Amendment even if that
23 witness is not a party. See *Daniels versus Pipefitters Local*
24 597. The evidence will not be excluded on grounds of unfair
25 prejudice because it is extraordinarily relevant testimony

1 from the only eyewitness to the shooting other than
2 Mr. Kelly -- excuse me, Mr. LaPorta.

3 Motion to bar plaintiff from calling Mayor Emanuel at
4 trial, that's granted. While the mayor's comments may be
5 offered into evidence -- see ruling on motion 22 -- plaintiff
6 may not call the mayor as a trial witness. In denying
7 plaintiff's motion to compel the mayor's deposition, the Court
8 wondered why is the introduction of Emanuel's public remarks
9 regarding the code of silence insufficient.

10 Mayor Emanuel should not be taken away from his work
11 to spend hours or days answering lawyers' questions unless
12 there is a real need, and plaintiff fails to convince the
13 Court why there is such a need here. See *Olivieri versus*
14 *Rodriguez*.

15 Motion to bar DOJ investigation and report. The DOJ
16 report is admissible under Rule 803(8)(a)(ii) to the extent it
17 contains factual -- but I already discussed that, so we
18 won't -- the same ruling on that motion.

19 5, motion to bar police task force report, the same
20 ruling, denied for the same reason.

21 Motion to bar evidence regarding the current status
22 of the IPRA and/or the Chicago Police Department
23 investigations into the shooting, the LaPorta shooting, is
24 denied to the extent not moot. Information on the current
25 status of IPRA and/or CPD investigations into the LaPorta

1 shooting while not relevant to the causation inquiry certainly
2 is relevant at least to plaintiff's showing that there are
3 widespread policies and practices of failing to investigate
4 officers charged with misconduct, see Count 6, and that the
5 City acted with deliberate indifference in "subsequent
6 acceptance of dangerous recklessness by the policy maker tends
7 to prove his preexisting disposition and policy." See
8 *Bordanaro versus McLeod*.

9 Any prejudice to the City can be ameliorated by a
10 jury instruction not to consider such evidence other than on
11 the issue of the existence of policies and practices to which
12 the City was deliberately indifferent and potentially at the
13 trial's second phase on right-of-access count.

14 Motion to bar certain evidence re. the denial of
15 access claim, the ruling is reserved.

16 Motion to bar argument or speculation that Kelly
17 tampered with the crime scene after first responders arrived,
18 that's denied. Counsel may make arguments reasonably inferred
19 from the evidence presented so long as the attorney argument
20 is fair commentary on the evidence and does not amount to
21 testifying or presenting evidence. See *U.S. versus Doyle*.

22 Plaintiff intends to adduce evidence that, for
23 example, Kelly was at least at one point walking around the
24 crime scene unrestrained and that Kelly made and received
25 certain calls on his cell phone. This is a sufficient quantum

1 of evidence to sustain the argument that Kelly tampered with
2 the crime scene after first responders arrived. Whether the
3 evidence is sufficiently persuasive to sustain the argument is
4 for the jury.

5 Motion to bar Kelly's CRs, log numbers, and other
6 allegations of misconduct occurring after January 2010 is
7 denied to the extent not moot. Evidence concerning Kelly's
8 misconduct subsequent to January 2010, while not relevant to
9 the causation inquiry, certainly is relevant at least to
10 plaintiff's showing that there are widespread policies and
11 practices of failing to investigate officers charged with
12 misconduct, Count 6, and that the City acted with deliberate
13 indifference, as "subsequent acceptance of dangerous
14 recklessness by the policy maker tends to prove his
15 preexisting disposition and policy." See *Bordanaro versus
16 McLeod*.

17 Any prejudice to the City can be ameliorated through
18 a limiting instruction to the jury not to consider such
19 evidence other than on the issue of the existence of policies
20 and practices to which the City was deliberately indifferent.
21 See ruling on defendant's motion 6.

22 Motion to bar testimony of Kelly's behavior
23 pre-employment with CPD, this is granted. It's already
24 excluded from the case. The motion to exclude that evidence
25 is, therefore, granted.

1 Motion to bar argument and testimony that the City
2 failed to investigate when a citizen complaint did not contain
3 a sworn affidavit. That's granted in part. Plaintiff may not
4 argue that any CR closed on the basis of "no affidavit"
5 amounted to a culpable failure to investigate.

6 However, plaintiff may argue and adduce evidence that
7 the City failed to investigate a particular CR if one of the
8 applicable exceptions to the affidavit requirement in the
9 operative collective bargaining agreement would have applied
10 to the CR at issue. See Illinois Statute 725/6, 50 Illinois
11 Statute 725/6, providing that the Act's provisions, including
12 its sworn affidavit requirement, only apply to the extent
13 there's no CBA provision addressing the issue.

14 Motion to bar Patricia LaPorta from testifying that
15 Kelly's father was a CPD commander. This is granted as
16 unopposed.

17 Motion to bar testimony regarding the contents of
18 Patricia LaPorta's September 2012 affidavit, I'm going to
19 reserve that ruling. Some of the statements in the affidavit
20 are based on her personal knowledge and are admissible to show
21 the City's notice of Kelly's behavior. Others recite
22 statements by Kelly that are admissible for substantive truth
23 as non-hearsay admissions of the City's employee on matters
24 within the scope of his employment.

25 Motion to bar hearsay statements of unnamed physician

1 concerning how LaPorta was injured, that's granted as
2 unopposed.

3 15, motion to bar hearsay statements attributable to
4 LaPorta concerning how he was injured, reserve ruling.
5 Precisely what statements the City seeks to bar on hearsay is
6 unclear. Some of the statements may fall under the hearsay
7 exception for statements made for the purpose of medical
8 diagnosis.

9 Depending on the circumstances of their making, still
10 other statements may constitute excited utterances. Others,
11 however, appear to be double hearsay. The Court will rule on
12 objections to particular statements as they arise and rule on
13 the hearsay issues at that time.

14 Motion to bar -- 16, motion to bar testimony
15 regarding how LaPorta was injured from lay witnesses without
16 personal knowledge, denied to the extent not moot. Plaintiff
17 may offer the testimony of lay witnesses concerning their
18 perception of LaPorta at relevant times. Because it is
19 helpful to clearly determine a fact in issue, this testimony
20 may also embrace the form of an ultimate opinion on LaPorta's
21 likelihood of suicide so long as it is rationally based on the
22 witness' perception and not indebted to scientific, technical,
23 or other specialized knowledge.

24 Motion to bar evidence regarding Alderman Moore's
25 personal opinions or beliefs or reading portions of his prior

1 testimony, denied in part, reserve ruling in part. A Rule
2 30(b)(6) witness may testify to matters within his personal
3 knowledge. See *PPM Finance versus Noranda1 USA*.

4 Thus, Alderman Moore may testify as to knowledge he
5 gained in his official position, notwithstanding that the City
6 designated him as its Rule 30(b)(6) witness. However, the
7 Court cannot yet determine whether the unspecified deposition
8 testimony would otherwise be admissible under Rule 804.

9 Motion to bar plaintiff's expert witness from
10 providing non-disclosed opinions at trial. This is granted in
11 part. Because Dr. Ziejewski rendered 11 specific opinions in
12 his expert report -- none of which took the express position
13 that LaPorta did not shoot himself -- his opinion to this
14 effect in his deposition went beyond the scope of plaintiff's
15 disclosures.

16 The Court thus excludes Dr. Ziejewski from testifying
17 as to his ultimate conclusion of who shot LaPorta. However,
18 Jason Beckert's reliance on Locard's Principle of Transfer
19 Evidence does not exceed the scope of his report, as it is a
20 foundational schema behind forensic examination and not the
21 sort of opinion, data, or fact that Rule 26(a)(2)(B)
22 contemplates.

23 Finally, Karl Reich's and David Balash's review of
24 photos and documents respectively that they had not reviewed
25 prior to their reports and depositions, even if technically

1 violating Rule 26(a)(2), did not cause sufficient prejudice to
2 warrant exclusion. See *Gicla versus U.S.* By the government's
3 own admission, neither experts' belated review of photos or
4 documents changed his opinion.

5 19, motion to bar lay testimony regarding operation
6 and mechanics of a Sig Sauer P226, that's denied.

7 Mr. Battistoni's contemplated testimony regarding whether, in
8 his experience, selling, shooting, and dismantling Sig Sauer
9 P226 firearms, they operate in a manner consistent with what
10 Chicago Police Department detectives told him, is admissible
11 lay testimony rationally based on Battistoni's perception,
12 helpful at least to determine the contours of the Chicago
13 Police Department's investigation of the LaPorta shooting and
14 not based on scientific, technical, or specialized knowledge.

15 To the extent that Battistoni's statements about the
16 Sig Sauer P226 cannot as lay testimony conclusively establish
17 how the gun actually works, a limiting instruction can help
18 cabin the jury's consideration of his testimony to the issue
19 of Chicago Police Department's investigation of the LaPorta
20 shooting. That Battistoni convinced IPRA Investigator Kobel
21 of how the gun operates is relevant to plaintiff's claims in
22 this action.

23 Motion to bar lay testimony opining on Kelly or any
24 other officer believing they could act with impunity. That's
25 denied. Plaintiff's claims hinge on showing whether the

1 City's failures were the moving force behind Kelly's actions
2 on January 12, 2010, by leading him to believe that he could
3 act with impunity. Although opining on Kelly's subjective
4 motivations for acting would clearly be inadmissible, lay
5 opinions of police officers based on their personal knowledge
6 of officers' behavioral problems and/or personal observations
7 of Kelly's behavior fall within the requirements of Rule 701,
8 and they are substantially more probative than prejudicial, so
9 the Court will not exclude them on 403 grounds.

10 21, motion to bar arguments that Chicago Police
11 Department officers colluded based on their shared
12 representation by Attorney Herbert. That's granted. Although
13 plaintiff is free to argue that particular facts or
14 circumstances give rise to a reasonable inference that Chicago
15 Police Department officers collude in general or colluded to
16 close ranks around Kelly -- see *U.S. versus Doyle* -- one such
17 circumstance that does not support that inference is the mere
18 fact of common representation by the same attorney.

19 This circumstance has little probative value with
20 respect to any claim of collusion, and it is vastly outweighed
21 by the prospect of jury confusion and the potential of unfair
22 prejudice to the City.

23 22, motion to bar testimony and argument regarding
24 Allyson Bogdalek's separation from the Chicago Police
25 Department, reserve ruling. Although the City has included

1 Ms. Bogdalek on its list of witnesses, it also claims that she
2 will be unavailable to testify. If the City calls her as a
3 witness, then Rule 608's framework will be implicated and Rule
4 804(b)(3)'s hearsay exception for statements against interest
5 will not obtain.

6 23, motion to bar testimony and arguments regarding
7 Kelly being racist or sexist. It's granted. While plaintiff
8 is perfectly free to explore the facts and circumstances of
9 CRs in which Kelly was alleged to have engaged in violence or
10 animosity towards women or racial minorities, any relevance to
11 this case of testimony or argument that he is a racist or
12 sexist cop is substantially outweighed by the danger of unfair
13 prejudice.

14 24, motion to bar evidence or arguments regarding
15 other events concerning allegations of police misconduct in
16 the media and police shootings, reserve ruling. One of
17 plaintiff's proof elements is showing a widespread practice or
18 custom so well settled as to constitute a custom or usage with
19 the force of law. This Court will decide objections to
20 plaintiff's arguments at the appropriate time but "is
21 unwilling to muzzle plaintiff's counsel at this early phase of
22 trial" with respect to other police misconduct. See *Charles*
23 *versus Cotter* and *Regalado versus City of Chicago*. Trial
24 judges have broad discretion in controlling counsel's
25 arguments and ensuring that arguments do not stray.

1 25, motion to bar plaintiff from arguing that
2 defendant has the burden to prove or disprove any element of
3 plaintiff's claim, that is granted as unopposed.

4 I think that covers them all.

5 MR. ROMANUCCI: Your Honor?

6 THE COURT: Yes, sir.

7 MR. ROMANUCCI: On behalf of plaintiff, might I have
8 clarification --

9 THE COURT: Yes, sir.

10 MR. ROMANUCCI: -- on one of plaintiff's motions?
11 That was defense -- hold on one second.

12 THE COURT: What was the --

13 MR. ROMANUCCI: It was on Lou Reiter. There were
14 several motions on Lou Reiter and bar motions on domestic
15 violence. Do I have that as granted in part, denied in part?

16 THE COURT: Which number? You had a motion, or was
17 it --

18 MR. ROMANUCCI: It's defendant No. 2.

19 THE COURT: Oh, defendant's No. 2. Oh, yes. That's
20 granted in part. Mr. Reiter may testify as to matters of
21 domestic violence. He apparently was in *Cazares versus*
22 *Frugoli* which permitted him to testify on past failures to
23 investigate and arrest an off-duty officer for criminal
24 offenses about which he had expertise. With *Hayes versus City*
25 *of Des Plaines*, Mr. Reiter has not received nor administered

1 any training in the area of prevention of suicide among
2 detainees nor any screening for such prevention.

3 However, he may not testify that the code of silence
4 or Chicago Police Department failures were the proximate cause
5 of Kelly's actions. Mr. Reiter may testify about the
6 reasonableness of officers' conduct and any egregious
7 deficiencies in the police department's practices so long as
8 these are tethered to professional standards Chicago Police
9 Department promulgates or are adhered to in comparable
10 departments.

11 Mr. Reiter may also rely on police accountability
12 task force report because it's admissible. Finally, although
13 Mr. Reiter may not testify as to Kelly's subjective
14 motivations, he may testify as to observations based on his
15 vast experience in and knowledge of law enforcement such as,
16 for example, that officers are more likely to commit
17 misconduct under certain circumstances.

18 MR. ROMANUCCI: Thank you, your Honor. And one more,
19 on defendant's motion in limine No. 12, I believe their motion
20 was to bar Patty LaPorta from testifying that Patrick Kelly's
21 father was a commander. I don't believe that it's undisputed
22 that Patrick Kelly's father was a police officer. That is an
23 undisputed fact.

24 Would that motion apply to Patty LaPorta not
25 testifying that Patrick Kelly's father was a police officer or

1 just to a commander?

2 MS. ROSEN: Our motion also sought to bar reference
3 to the fact that he was a police officer 30 years ago for six
4 years.

5 MR. ROMANUCCI: Part and parcel of one of our claims,
6 your Honor --

7 THE COURT: I think what I said was that's granted as
8 unopposed, the testimony of Patricia LaPorta's belief that
9 Kelly's father was employed as a Chicago Police Department
10 commander. However, plaintiff may adduce evidence from other
11 sources that Kelly's father was a Chicago Police Department
12 officer in the '70s because it is relevant to plaintiff's code
13 of silence claim, and there is little potential for prejudice
14 to the City.

15 MR. ROMANUCCI: Thank you, your Honor. That
16 clarifies it.

17 THE COURT: All right. Anything else? If not, we
18 will -- a few -- my predilections I like to go through.
19 Recross and redirect, particularly redirect, should be -- or
20 recross and redirect should be severely limited solely to
21 matters raised for the first time, and re-recross and
22 re-redirect should never be attempted.

23 I do not like sidebars, so if at all possible,
24 obviously -- let me backtrack a little bit. I probably failed
25 to mention that motions in limine are exactly that. They're

1 motions in advance of the trial on an incomplete record. So
2 the Court, obviously, can be mistaken on the rulings. Also,
3 testimony, doors may be opened by one side or the other. My
4 motions in limine, however, should be obeyed during the
5 opening statements and not countered unless the matter is
6 brought to my attention in a sidebar and that I express an
7 agreement with you, for example, that a door may have been
8 opened or not opened.

9 So to that extent, sidebars are okay. However, I
10 have been doing this for a long time. I think I know the
11 rules of evidence. So if you raise an objection, you cite the
12 basis for your objection citing the rule of evidence that
13 you're relying on either by name or by number. You can say
14 "hearsay," for example, or 404(b) or whatever, and I will rule
15 on based upon my observation and knowledge of the rules of
16 evidence.

17 If I'm unsure, I may ask for a sidebar, but I don't
18 need a sidebar every time you make an objection, is what I'm
19 trying to get across to you. Just state the reason for your
20 objection, and I will rule on it based upon my observation of
21 what I hear during the course of the trial. So we will
22 have -- if there is a matter of some importance that you wish
23 to bring to my attention, hopefully, it can wait until we have
24 a recess so we don't have the jury -- jurors do not like
25 sidebar conferences, and they don't like delays in the -- so

1 I'd prefer if we could do whatever important matters at
2 sidebar after the jurors have been excluded for, say, a
3 recess, but if absolutely necessary, I will, of course,
4 entertain a sidebar.

5 Every comment you wish to make to each other must go
6 through me. In other words, I don't want you arguing with
7 each other. If you have an objection, you raise it to me. If
8 you have a comment, you raise it to me, and I will consider
9 it, and I will either agree with you or disagree with you, and
10 we'll proceed that way. I don't think I need to tell that,
11 but every now and then we get lawyers that want to argue back
12 and forth, and I don't countenance that.

13 You do not need to ask leave to approach a witness to
14 present a document. I have always held that that's really --
15 I've never in 31 years ever denied the right to approach a
16 witness, so you may do so without asking leave to approach.

17 We're going to have jury selection. I think I
18 mentioned last time you were in, we'll pick a jury of 10.
19 Each side gets three peremptory challenges. The way I have --
20 we'll do it again in this case. We'll put 10 jurors in the
21 box, and I will conduct the voir dire. After I have concluded
22 the voir dire, if you believe that some additional information
23 is necessary, you can ask for a sidebar, and I will consider
24 further questioning of that particular juror.

25 What I will do is go through all 10, and then after

1 we have 10 in the box, then you will exercise your peremptory
2 challenges simultaneously in writing, which means you'll write
3 on a piece of paper, "Defense wishes to strike juror No. 2"
4 and plaintiff says No. 8, for example, and I will, without --
5 I will not say who excused them. I'll just excuse them, and
6 then we'll fill those, and we will go back and forth.

7 Now, in the event that you simultaneously strike the
8 same juror, the first time that happens, that's chargeable to
9 the plaintiff. The second time that happens, that's
10 chargeable to defense. For example, let's say plaintiff
11 strikes jurors 1 and 2, defense 2 and 3. At that point,
12 plaintiff has exercised two and defense one, so we replace
13 those three and both sides strike replacement No. 3. At that
14 time, the defense has exercised two and the plaintiff two.

15 And do not -- if you don't object to any of the
16 potential jurors, don't get up and say, "They're all fine."
17 Write down on a piece of paper, "Plaintiff does not object to
18 any" or "they're all okay to me," however you want to put it.

19 One thing you should be aware of is I do not -- the
20 way I do it, once the jurors are -- get through your
21 peremptory challenges, I'll swear them in, so there's no
22 back-striking. So remember that. So if you don't like, for
23 example, the sexual makeup of the jury, it's too late to
24 exercise challenges to a juror that has previously been
25 accepted.

1 I tend to be pretty liberal with excuses. It's still
2 three to four weeks, is what your best estimates?

3 MR. ROMANUCCI: Yes. I would anticipate three weeks,
4 your Honor.

5 MS. ROSEN: Three weeks seems, based on what we know
6 right now, your Honor. I would say more two to three.

7 MR. ROMANUCCI: It could go into a fourth week, but I
8 don't see it going four weeks.

9 THE COURT: I'll say three weeks, possibly into four
10 weeks. And I'll be pretty liberal. That's a long time for
11 jurors to be away from their work. So I'll be pretty liberal
12 with excuses, and I will ask them right off the bat, can they
13 devote three to four weeks, hopefully, three weeks, but it
14 might go into the fourth week.

15 Any questions before we bring the jurors up?

16 MR. ROMANUCCI: Your Honor, just so I understand, I
17 understand your rule about notes. Who do I pass -- or who do
18 we pass the notes to as to who we choose?

19 THE COURT: What notes are you talking about?

20 MR. ROMANUCCI: With respect to if we're using a
21 peremptory.

22 THE COURT: Oh, to the clerk. She'll be --

23 MR. ROMANUCCI: To Wanda.

24 THE COURT: Yes. Ms. Parker will be here. You can
25 give them to her. I'm sorry.

1 MS. ROSEN: Judge, I have a question about the
2 witnesses. The plaintiff is calling many, many, many
3 witnesses that are City employees and that are also on the
4 City's witness list. To the extent that the City actually has
5 additional testimony to elicit from those witnesses, we think
6 that rather than calling them back in the defendant's case --

7 THE COURT: Yes, I was going to raise that. If a
8 witness is called by the plaintiff, is it acceptable to both
9 sides that the defense perhaps exceed the direct examination
10 so they conclude the witness and not call them back? It would
11 work both ways.

12 MR. ROMANUCCI: It would be my preference not to
13 waive scope, your Honor. They would be putting on their case
14 within ours.

15 THE COURT: I don't know which witnesses -- are there
16 any --

17 MS. ROSEN: Judge, I mean, it's -- there's -- you
18 know, there's the police officers that were all on the scene.
19 There's the detectives that did the investigation. There's
20 the IPRA investigators. There's Alderman Moore. There's --
21 you know, there's a myriad of witnesses, that, you know, the
22 City could want testimony from that exceeds the scope, and to
23 have to bring all those people back again would unduly extend
24 the trial.

25 THE COURT: Why don't we do it this way. Why don't

1 we do it witness by witness. If a witness is certainly like a
2 policy maker, I can understand where you wouldn't want the
3 witness, but if it's a person who is there strictly as a fact
4 witness, it seems to me it would be helpful not to have to
5 call that person back both from a time standpoint and from the
6 standpoint of the City.

7 MR. ROMANUCCI: Your Honor, are there peremptory
8 challenges for alternates?

9 THE COURT: We're not having alternates. In a
10 civil -- there's no alternate juror. You have to have six.
11 You can call more than six, up to 12, but you don't get more
12 than three. So there's no alternates. Whatever ones we end
13 up with, and I'm hoping that we can get 10 so that if we lose
14 one, two, three, or four, we don't have to start over again.

15 MR. ROMANUCCI: Understood. Your Honor, there's one
16 other housekeeping matter. Mr. Burke is here on behalf of
17 Gordon's Lounge.

18 THE COURT: Oh, yes.

19 MR. ROMANUCCI: And we've reached agreement with them
20 on settlement, so we would like to at least inform your Honor
21 that we do have an agreement on settlement with Gordon Lounge
22 and we would like to excuse --

23 THE COURT: I just won't mention them at all during
24 the case. Is that --

25 MR. ROMANUCCI: That's fair.

1 THE COURT: All right. So that's true, is it?

2 MR. BURKE: It is true, Judge.

3 THE COURT: So there's no particular reason for you
4 to have to stick around then.

5 MR. BURKE: Correct. Thank you.

6 THE COURT: You're excused then. I won't even
7 mention it to the jury because it's -- we'll just make sure
8 that whatever we hand out doesn't have "Gordon's Lounge" on
9 it. So it's Gordon's Lounge, doing business as Brewbakers
10 that is settling, and they will be dismissed.

11 MR. ROMANUCCI: That is correct, your Honor.

12 THE COURT: Okay. One other thing, I want to read a
13 statement of the case to the jury just to tell them what the
14 case is about. And I have written one out. I have no pride
15 of authorship. If it's not acceptable in some way, shape, or
16 form, I would ask for your input, but my suggestion is to tell
17 the jury, and this is when they come in just so that they know
18 what the case is about, they know it's not a murder trial or
19 it's not an employment discrimination or something else:

20 On January 12, 2010, the plaintiff, Michael LaPorta,
21 suffered gunshot wounds to his head from the service weapon
22 belonging to Patrick Kelly, an off-duty Chicago police
23 officer. The plaintiff contends that he was shot by Officer
24 Kelly. Plaintiff also contends that the City of Chicago is
25 responsible for the actions of Officer Kelly even though he

1 was off duty at the time because it had widespread policies
2 and practices that sought to protect police officers who
3 commit violence against citizens while they're off duty so
4 that they are encouraged to believe that they can commit such
5 violence with impunity.

6 The City of Chicago contends that LaPorta shot
7 himself. It also contends that it had no such policies and
8 practices so it is not responsible for the actions of its
9 police officers while they're off duty. Plaintiff claims to
10 have suffered damages as a result of the shooting.

11 How is that? Does that all sound all right?

12 MS. ROSEN: Sounds fine, Judge.

13 MR. ROMANUCCI: Your Honor, the plaintiff has no
14 objection to it.

15 THE COURT: All right. I'm just -- I will preface it
16 by saying that neither side is committed to this, that this is
17 my observation just so that they know what the case is about,
18 so I'll read them that, and then they come in. I'll also then
19 ask you to introduce yourselves and the people at your table.

20 Mr. Romanucci, I'll ask you to -- and Ms. Rosen to do
21 the same for her table.

22 Now, there's one other motion, that is, that you --
23 plaintiff seeks to have the mother and brother sit at the
24 counsel table. Is that correct?

25 MR. ROMANUCCI: It would either be mother or brother,

1 and I'll let Mr. Gould speak to that if your Honor wishes.

2 MR. GOULD: Yes, your Honor. Because of Michael D.
3 LaPorta's physical limitations and his health, plaintiffs
4 anticipate that he would only be present during the opening
5 and the day he's testifying and, therefore, we'd like to
6 designate his mother and/or brother as his representative in
7 court.

8 THE COURT: Is there objection?

9 MS. ROSEN: There is, Judge. They're witnesses in
10 the case, and we have the motion to exclude. You know,
11 originally, Mr. LaPorta's father was the guardian, and
12 certainly as the guardian, he would be able to sit at the
13 table. Plaintiff chose in the last couple weeks to substitute
14 him out as plaintiff and add in the bank.

15 So we object. You know, Ms. -- his mother has
16 testimony about purported conversations she had with Kelly.
17 And these are witnesses. They go beyond just damage
18 witnesses. If they were just damage witnesses that can speak
19 to -- you know, that would be testifying about Mikey --
20 Mr. LaPorta's condition, we wouldn't, but they are -- they
21 have -- they have information and will be testifying about the
22 IPRA investigation, about the detective division
23 investigation, about purported conversations they had with
24 Mr. Kelly, and so we would object.

25 THE COURT: All right. I will allow one, just one of

1 them. You can make your choice, whether it be the mother or
2 the son, but I don't want them back and forth, so the same
3 one, but I will overrule the objection and allow you to pick
4 one.

5 MR. ROMANUCCI: And your Honor, I also want to state
6 that there is -- that Ms. Rosen is correct. In the last
7 couple weeks, if your Honor recalls, we did substitute the
8 guardian of the estate, and Ms. Ensemble is here in court
9 today. She's a representative of the bank.

10 So we'll -- we'll designate either Ms. Ensemble or
11 Mrs. LaPorta or Chris LaPorta to be seated at counsel table.

12 THE COURT: All right. We will stand until the
13 jurors are here, and then we'll start jury selection.

14 (Recess from 10:58 a.m. to 11:15 a.m.)

15 (Proceedings heard in open court. Prospective jurors in.)

16 THE COURT: Good morning, ladies and gentlemen.
17 You've been called here to participate in jury selection in a
18 case entitled Michael A. LaPorta -- or Michael A. LaPorta
19 versus City of Chicago. And I'll give you a brief description
20 of the case as I understand it so that when I'm -- you're
21 being selected, undergoing the selection as jurors, you'll
22 know what some -- the reason for some of the questions we're
23 going to ask.

24 On January 12th, 2010, the plaintiff, Michael
25 LaPorta, suffered a gunshot wound to his head from the service

1 weapon belonging to Patrick Kelly, an off-duty Chicago police
2 officer. The plaintiff, Mr. LaPorta, contends that he was
3 shot by Officer Kelly.

4 Plaintiff also contends that the City of Chicago is
5 responsible for the actions of Officer Kelly even though he
6 was off duty at the time because the City of Chicago had
7 widespread policies and practices that sought to protect
8 police officers who commit violence against citizens while
9 they're off duty so that they are encouraged to believe that
10 they can commit such violence with impunity.

11 The City of Chicago contends that Mr. LaPorta shot
12 himself. It also contends that it had no such policies or
13 practices so that it is not responsible for the actions of the
14 police officers while they're off duty. The plaintiff claims
15 to have suffered severe damages as a result of the shooting.

16 That's what this case is generally about. Again,
17 that's my personal conclusion of what the case is about so the
18 parties, to the extent that I might be misinformed slightly on
19 some of the facts or contentions, that is not -- neither party
20 is bound to accept my complete statement there.

21 The participants in this case, Mr. -- plaintiff is
22 represented by Mr. Antonio Romanucci. Would you represent --
23 excuse me, introduce the people at your table?

24 MR. ROMANUCCI: Yes, your Honor.

25 Good morning, ladies and gentlemen. My name is

1 Antonio Romanucci. I'm one of the attorneys for the
2 plaintiff, Michael LaPorta. And to my left here is Marty
3 Gould, Nicoletta Ward, Patty Kane with our trial team, Bruno
4 Marasso, and walking in the door right now is Bryce Hensley.
5 Thank you very much.

6 THE COURT: Thank you.

7 The City of Chicago is represented by a number of
8 people. Ms. Rosen, would you introduce the people at your
9 table.

10 MS. ROSEN: Sure. My name is Eileen Rosen. I along
11 with Stacy Benjamin, James Novy, and Theresa Carney represent
12 the City of Chicago.

13 THE COURT: All right. Now, you've met the
14 participants in the case. One of the things I need to tell
15 you, this case, we anticipate to take three weeks to trial,
16 and it's possible that the case might roll over into a fourth
17 week. We expect the case to conclude in three.

18 However, just to be honest with you, it's a
19 possibility it might take slightly longer than that. And I
20 realize that that is a significant period of time and that not
21 everybody is economically set so that they can devote that
22 time, so I would ask you, when you're undergoing selection as
23 a juror, if you wish to be excused -- and I can understand why
24 a person would want to be excused. I'm not encouraging that.
25 But if you need to be excused for economic reasons or some

1 other reason, health reasons or whatever, I want you to bring
2 that up at the very beginning so that I can determine whether
3 or not you should be excused from participating in this case.

4 If you are excused by me, that does not excuse you
5 from participating in other case -- other jury cases so that
6 you would have to be available for selection in some other
7 case. It would only -- I can only control what happens in
8 this court, but I will certainly entertain excuses of why it
9 might be very difficult for some of you to participate.

10 I would hope that as many of you as possible would
11 agree to participate in this case. As you may or may not
12 recall your -- back in high school days when you took civics,
13 one of your responsibilities as a citizen is to serve your
14 country both in terms of war and strife but also as a juror.
15 That's one of our obligations as a citizen.

16 Our method of problem resolving, dispute resolution
17 takes place in a courtroom and in many -- most instances,
18 before a jury of what we call peers, in other words, people
19 drawn from everyday life who when presented with the facts can
20 give us a decision that represents the feeling of the
21 community. You're all representative of the larger community
22 here in the Northern District of Illinois.

23 So it's important to -- you've been selected here by
24 lot. You may not realize that, but you come from various
25 lists that are taken up by lot so that your being in this

1 courtroom in this particular time either represents good luck
2 on your part or maybe not so good luck, depending on your
3 point of view.

4 However, I would hope that as many of you as possible
5 would agree to participate in this case. However, as I said,
6 I will be understanding because I can understand being away
7 from your work or from your family and so forth for three
8 weeks or more might pose a difficult time.

9 The other -- I should introduce myself. I'm Judge
10 Leinenweber. I've been assigned this case. I'm a federal
11 district judge. And the lady to my right is Ms. Wanda Parker.
12 She is the official member of the Clerk's office that keeps
13 records in this particular case and helps in various parts of
14 this case.

15 The lady on my left is Ms. Judy Walsh who is the
16 official court reporter. And that's important in one respect,
17 that if you are undergoing questioning by me as what we call
18 voir dire of your acceptability as a juror in this particular
19 case, she takes down everything that's said, everything that I
20 say and everything that you as a potential juror will say, so
21 it's important that you verbalize your answer.

22 You shouldn't nod or make some like "uh-huh" or
23 "uh-uh" because they're pretty hard to distinguish in the
24 record, what's the difference between "uh-huh" and "uh-uh." I
25 might be able to figure it out in the context, but it's

1 important that you say "yes," "no," or whatever is required to
2 correctly answer the question.

3 So one of the things that -- those of you who are
4 called up here will undergo a relatively short question and
5 answer session concerning some of your experiences, some of
6 your knowledge, and what you do. Now, I might explain, we're
7 not just being nosy. There is a purpose for this questioning
8 that we'll ask.

9 Under federal law, each side is entitled to have any
10 potential juror that has a previous view, I'd say unshakeable
11 view as to how a case such as this should come out, excuse
12 such a person for cause. They also have the right under
13 federal law to excuse a certain number of jurors by exercising
14 what they -- we call a peremptory challenge, which means that
15 they can ask or have a particular person removed without
16 having to justify to the judge why they don't want them.

17 This is their right under federal law, and as the
18 judge, I must grant them that right. So it's important that
19 they understand some things about you so they can exercise
20 their rights reasonably. We're not just trying to be nosy.
21 Having said that, I don't believe that the questions are
22 particularly invasive, but to the extent that anything is, we
23 would apologize in advance, but it's necessary.

24 Is there anything else, Wanda, that I should --

25 THE CLERK: Not that I can think of.

1 THE COURT: Oh, please rise and be sworn.

2 (Veniere sworn.)

3 THE COURT: Please be seated.

4 Would you call 10 jurors? We're going to have a jury
5 of 10, so the first person whose name is called, take the seat
6 closest to me and then second, third, fourth, fifth, sixth. I
7 think there's seven in the first row, and then there will be
8 three in the back row.

9 THE CLERK: Roger Cummings.

10 Andrea Diven.

11 Eugenio Santiago.

12 Sunita Anand, A-n-a-n-d.

13 Annette Young. You can come up this way -- yes.

14 Jennifer Hyatt.

15 Kevin Morris.

16 Maribel Cano, C-a-n-o.

17 Maria Ceballos.

18 Nicole Guerrero.

19 And Jocelyn Gerona.

20 THE COURT: The first lady, is it Andrea Diven?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: And where do you live? When I say "where
23 do you live," you don't have to give me a street address, but
24 we're interested in like the north side of Chicago, the south
25 side of Chicago, the west side of Chicago.

1 PROSPECTIVE JUROR: I live in North Aurora.

2 THE COURT: Pardon?

3 PROSPECTIVE JUROR: North Aurora.

4 THE COURT: North Aurora. Thank you. How old are
5 you?

6 PROSPECTIVE JUROR: 51.

7 THE COURT: What is your educational background?

8 PROSPECTIVE JUROR: High school.

9 THE COURT: And what is your employment?

10 PROSPECTIVE JUROR: Assistant to a financial advisor,
11 part-time.

12 THE COURT: Are you able to devote the three to four
13 weeks in this case?

14 PROSPECTIVE JUROR: I'm not sure.

15 THE COURT: When you say you're not sure --

16 PROSPECTIVE JUROR: Well, financially, it would
17 be very -- it would be difficult. I only work part-time, but
18 I would like to serve as a juror. I'm not sure. I'll just
19 say yes.

20 THE COURT: Okay. Have you heard -- I know I just
21 gave you a very brief description of the case. Have you heard
22 anything about this case?

23 PROSPECTIVE JUROR: I have not.

24 THE COURT: Okay. Did you recognize anybody who was
25 introduced to you?

1 PROSPECTIVE JUROR: I did not.

2 THE COURT: Have you or your family member ever
3 worked in a police capacity?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Have you or your family member ever
6 worked for the City of Chicago?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Have you or any family member ever had a
9 negative experience with a Chicago police officer?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Have you ever had a negative experience
12 with any policeman?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Have you or any of your family members
15 ever been crime victims?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Have you or any of your family members
18 ever been arrested for a serious crime?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Do you know anyone who has committed or
21 attempted to commit suicide?

22 PROSPECTIVE JUROR: I do not.

23 THE COURT: Do you know anyone who has suffered a
24 serious traumatic brain injury?

25 PROSPECTIVE JUROR: I do not.

1 THE COURT: Have you served on a jury before?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Have you ever filed a lawsuit or have you
4 ever been sued?

5 PROSPECTIVE JUROR: No.

6 THE COURT: If the plaintiff establishes liability on
7 serious damages, would you be willing to award him substantial
8 damages?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: If, on the other hand, the plaintiff
11 fails to establish liability, would you be willing to find in
12 favor of the City of Chicago and award no damages?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Is there any reason at all that you could
15 not be a fair juror to both sides in this particular case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: The next gentleman is Eugenio Santiago.

18 PROSPECTIVE JUROR: Correct.

19 THE COURT: Where do you live, sir?

20 PROSPECTIVE JUROR: On the north side of Chicago.

21 THE COURT: And how old are you?

22 PROSPECTIVE JUROR: I'm 64 now.

23 THE COURT: What is your educational background?

24 PROSPECTIVE JUROR: High school.

25 THE COURT: And what is your business or occupation?

1 PROSPECTIVE JUROR: I'm a caregiver.

2 THE COURT: All right. Are you able to devote three
3 to four weeks?

4 PROSPECTIVE JUROR: It's going to be impossible
5 because I -- the person that I'm a caregiver for is my
6 mother-in-law, and I have no one there to basically take care
7 of her.

8 THE COURT: Thank you, sir. I'll excuse you. Thank
9 you, sir.

10 THE CLERK: You can leave for the day. Call the jury
11 department tomorrow after 4:30.

12 THE COURT: The next lady is Sunita Anand.

13 PROSPECTIVE JUROR: That's correct.

14 THE COURT: Where do you live, ma'am?

15 PROSPECTIVE JUROR: I live in the southwest suburbs.

16 THE COURT: Okay. How old are you?

17 PROSPECTIVE JUROR: 50.

18 THE COURT: What is your educational background?

19 PROSPECTIVE JUROR: I'm an undergrad.

20 THE COURT: And what is your employment?

21 What is your employment?

22 PROSPECTIVE JUROR: I'm an executive assistant.

23 THE COURT: Are you able to devote three to four
24 weeks for this case?

25 PROSPECTIVE JUROR: No, because I have to travel to

1 help my mom with her knee replacement surgery in two weeks.

2 THE COURT: All right. Thank you. I'll excuse you.

3 PROSPECTIVE JUROR: Thank you.

4 THE CLERK: Just call the jury department tomorrow
5 after 4:30.

6 THE COURT: The next lady is Annette Young.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Where do you live, ma'am?

9 PROSPECTIVE JUROR: South side of Chicago.

10 THE COURT: How old are you?

11 PROSPECTIVE JUROR: 69.

12 THE COURT: What is your educational background?

13 PROSPECTIVE JUROR: High school.

14 THE COURT: And what is your business or occupation?

15 PROSPECTIVE JUROR: I'm retired.

16 THE COURT: All right. Are you able to devote three
17 to four weeks for this case?

18 PROSPECTIVE JUROR: No, I'm not.

19 THE COURT: Why not?

20 PROSPECTIVE JUROR: In two days, I have to go get a
21 heart monitor in. I must do that.

22 THE COURT: Okay. Thank you. I'll excuse you.

23 THE CLERK: If anyone is excused for the day, just go
24 home, call the jury department tomorrow after 4:30.

25 THE COURT: The next person, Jennifer Wyatt.

1 PROSPECTIVE JUROR: Hyatt.

2 THE COURT: Hyatt. Excuse me. Where do you live,
3 ma'am?

4 PROSPECTIVE JUROR: Forest Park.

5 THE COURT: How old are you?

6 PROSPECTIVE JUROR: 43.

7 THE COURT: What is your educational background?

8 PROSPECTIVE JUROR: High school.

9 THE COURT: And what is your business or occupation?

10 PROSPECTIVE JUROR: I'm a web developer.

11 THE COURT: All right. Now, are you able to devote
12 three weeks to this trial?

13 PROSPECTIVE JUROR: I'm in the process of
14 transferring to another position, so it might be difficult for
15 my company more than it would be for me.

16 THE COURT: Do you think you could do it?

17 PROSPECTIVE JUROR: I think it's going to put a
18 strain on them, so I'm going to say I would like to decline.

19 THE COURT: All right. I'll excuse you. Thank you.

20 The next gentleman is Kevin Morris; is that right,
21 sir?

22 PROSPECTIVE JUROR: That's correct.

23 THE COURT: Where do you live, sir?

24 PROSPECTIVE JUROR: I live in Summit.

25 THE COURT: And how old are you?

1 PROSPECTIVE JUROR: I'm 53.

2 THE COURT: What is your educational background?

3 PROSPECTIVE JUROR: Two years of junior college.

4 THE COURT: And what is your employment, sir?

5 PROSPECTIVE JUROR: I'm a part-time forklift
6 driver --

7 THE COURT: All right.

8 PROSPECTIVE JUROR: -- second shift. During first
9 shift, I take care of my mother. She just turned 86
10 yesterday, so that's why -- I'm taking care of her on first
11 shift, I go to work on second, and my 18-year-old son, he
12 looks after her, you know, while I'm at work.

13 THE COURT: Would you not be able then to serve as a
14 juror in this case?

15 PROSPECTIVE JUROR: I think that's going to be a
16 strain because he's also in -- he works at Blast Gym and goes
17 to Moraine Valley right now, so I can't just drop all that
18 weight on him. Plus as far as my job, I just switched to the
19 second shift. I got off of first shift to go to second shift
20 just for those arrangements itself.

21 THE COURT: All right. I'll excuse you. Thank you.

22 The next lady is Maribel Cano; is that right?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: And where do you live, ma'am?

25 PROSPECTIVE JUROR: In Montgomery.

1 THE COURT: And how old are you?

2 PROSPECTIVE JUROR: 29.

3 THE COURT: What is your educational background?

4 PROSPECTIVE JUROR: Some college.

5 THE COURT: And what is your business or occupation?

6 PROSPECTIVE JUROR: I'm a paralegal.

7 THE COURT: Are you able to devote three to four
8 weeks?

9 PROSPECTIVE JUROR: No, but yeah. Yes.

10 THE COURT: Okay. Have you heard anything about this
11 case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you recognize anyone who was
14 introduced to you?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Have you or your family ever worked in a
17 police capacity?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Have you or your family ever worked for
20 the City of Chicago?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Have you or your family member ever had a
23 negative experience with a Chicago police officer?

24 PROSPECTIVE JUROR: No.

25 THE COURT: How about with any police officer,

1 period?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Do you have a view of the Chicago Police
4 Department, either negative, positive, or neutral?

5 PROSPECTIVE JUROR: What was the question again?

6 THE COURT: Pardon?

7 PROSPECTIVE JUROR: What was that again?

8 THE COURT: Do you have a view of the City of Chicago
9 Police Department which is perhaps either negative, positive,
10 or neutral?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Neutral?

13 PROSPECTIVE JUROR: Neutral.

14 THE COURT: Okay. Have you or any family member ever
15 been a crime victim?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Have you or a family member ever been
18 arrested for a serious crime?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Have you, anybody -- do you know anyone
21 who has committed or attempted to commit suicide?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Pardon?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Who would that be?

1 PROSPECTIVE JUROR: A family member, cousin.

2 THE COURT: Pardon?

3 PROSPECTIVE JUROR: A family member, cousin.

4 THE COURT: A cousin. All right. Was the person
5 successful?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. Do you know of anyone who has
8 suffered a serious traumatic brain injury?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Have you served on a jury before?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Have you ever filed a lawsuit or been
13 sued --

14 PROSPECTIVE JUROR: No.

15 THE COURT: -- personally?

16 If plaintiff establishes liability on serious
17 damages, would you be willing to award substantial damages?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: If, on the other hand, the plaintiff
20 fails to establish liability, would you be willing to find in
21 favor of the City of Chicago and award no damages?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Is there any reason you couldn't be a
24 fair and impartial juror in this case?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Okay. Thank you.

2 The next person is Maria Ceballos?

3 PROSPECTIVE JUROR: Ceballos.

4 THE COURT: Ceballos.

5 PROSPECTIVE JUROR: Ceballos.

6 THE COURT: Pardon?

7 PROSPECTIVE JUROR: Ceballos.

8 THE COURT: Ceballos. I'm getting closer.

9 PROSPECTIVE JUROR: Correct.

10 THE COURT: Where do you live?

11 PROSPECTIVE JUROR: In Chicago, in the north side of
12 Chicago.

13 THE COURT: How old are you?

14 PROSPECTIVE JUROR: 57.

15 THE COURT: What is your educational background?

16 PROSPECTIVE JUROR: High school.

17 THE COURT: And what is your employment?

18 PROSPECTIVE JUROR: Nanny.

19 THE COURT: And are you able to devote three weeks or
20 so to this trial?

21 PROSPECTIVE JUROR: I think it's very hard for me
22 because the kind of job that I have with this family, they
23 have only me to take care of the children, and I'm alone. I'm
24 survive by myself. So I'm not sure really, honestly. I'm not
25 sure because in my position, it's very hard compared with

1 other people that have family or other income with them and
2 different reasons that are very different.

3 THE COURT: Okay. I'll excuse you. Thank you.

4 The next person is Nicole Guerrero.

5 PROSPECTIVE JUROR: Guerrero.

6 THE COURT: You're Jocelyn Gerona?

7 PROSPECTIVE JUROR: Gerona.

8 THE COURT: Gerona. Okay. That's fine. We'll take
9 you first. Where do you live, Ms. Gerona?

10 PROSPECTIVE JUROR: Crest Hill, Illinois.

11 THE COURT: How old are you?

12 PROSPECTIVE JUROR: 49.

13 THE COURT: What is your educational background?

14 PROSPECTIVE JUROR: College.

15 THE COURT: And what is your employment?

16 PROSPECTIVE JUROR: Registered nurse.

17 THE COURT: And are you -- would you be able to
18 devote three weeks or slightly more to this case?

19 PROSPECTIVE JUROR: Actually, no, because my dad is
20 sick. I'm from the Philippines. I'm planning to see him at
21 the end of this month.

22 THE COURT: We will be finished by the end of the
23 month. Does that make a difference?

24 PROSPECTIVE JUROR: Okay.

25 THE COURT: Is that okay then?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Okay. I said the end of the month, we're
3 talking about October 29th. We expect the case to be over by
4 then, no problem. Okay. Have you heard about this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Okay. And did you recognize anybody who
7 was introduced to you?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Have you or your family member ever
10 worked in a police capacity for any police force?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Have you or your family member ever
13 worked for the City of Chicago?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Have you or your family member ever had a
16 negative experience with a Chicago police officer?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Or with any police officer anywhere?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Do you have a view of the City of Chicago
21 Police Department, either negative, positive, or neutral?
22 What would you say your view is?

23 PROSPECTIVE JUROR: I'm sorry. I didn't get that
24 question. Can you repeat it, please?

25 THE COURT: Do you have a view of the City of Chicago

1 Police Department, either negative, positive, or would you say
2 your view of the Chicago Police Department is neutral?

3 PROSPECTIVE JUROR: Neutral.

4 THE COURT: Okay. Have you or any family member ever
5 been a crime victim?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Have you or your family member ever been
8 arrested for a serious crime?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Do you know anyone who has committed or
11 attempted to commit suicide?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you know anyone who has suffered a
14 serious traumatic brain injury?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Have you served on a jury before?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Have you ever filed a lawsuit or have you
19 been sued by someone else?

20 PROSPECTIVE JUROR: Is this more like small claims
21 that was already cleared?

22 THE COURT: For rent or something like that?

23 PROSPECTIVE JUROR: Yeah, it was just like about this
24 credit card companies, but it was all cleared up.

25 THE COURT: Oh, okay. It was cleared up?

1 PROSPECTIVE JUROR: Uh-huh.

2 THE COURT: Okay. If plaintiff establishes liability
3 and serious damages, would you be willing to award substantial
4 damages?

5 In other words, the plaintiff will be asking for
6 money, and if they establish liability, in other words, they
7 established that they're entitled to money from the City of
8 Chicago, would you -- and they establish that they had very
9 serious injury, would you be willing to award substantial
10 damages, in other words, money damages? Would you be willing
11 to do that?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: But, on the other hand, if the plaintiff
14 fails to establish liability, would you be willing to find in
15 favor of the City of Chicago and award no damages?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay. Is there any reason you couldn't
18 be a fair and impartial juror in this case?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Thank you.

21 Now Nicole Guerrero. Did I pronounce it right?

22 PROSPECTIVE JUROR: That's fine, yes.

23 THE COURT: Where do you live?

24 PROSPECTIVE JUROR: Naperville.

25 THE COURT: And how old are you?

1 PROSPECTIVE JUROR: 35.

2 THE COURT: What's your educational background?

3 PROSPECTIVE JUROR: Master's degree.

4 THE COURT: And what is your business or occupation?

5 PROSPECTIVE JUROR: I'm a teacher.

6 THE COURT: Are you able to devote three weeks or so
7 for this case?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Have you heard anything about this case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Do you recognize -- did you recognize
12 anybody who was introduced to you?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Have you or any family member ever worked
15 in a police capacity?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Have you or any family member ever worked
18 for the City of Chicago?

19 PROSPECTIVE JUROR: I worked for CPS for one year,
20 public schools.

21 THE COURT: Okay. Have you or any of your family
22 members ever had a negative experience with a Chicago police
23 officer?

24 PROSPECTIVE JUROR: No.

25 THE COURT: With any police officer?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Do you have a view of the City of Chicago
3 Police Department, negative, positive, or would you say you're
4 neutral?

5 PROSPECTIVE JUROR: Neutral.

6 THE COURT: Okay. Have you or any family member been
7 a crime victim?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Have you or any family member ever been
10 arrested for a serious crime.

11 PROSPECTIVE JUROR: No.

12 THE COURT: Do you know anyone who has committed or
13 attempted to commit suicide?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Do you know anyone who has suffered a
16 serious traumatic brain injury?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Have you served on a jury before?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Have you ever filed a lawsuit or been
21 sued?

22 PROSPECTIVE JUROR: No.

23 THE COURT: If plaintiff establishes liability on
24 serious damages, would you be willing to award substantial
25 damages?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: On the other hand, if the plaintiff fails
3 to establish liability, would you be willing to find in favor
4 of Chicago and award no damages?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Is there any reason you couldn't be a
7 fair and impartial juror?

8 PROSPECTIVE JUROR: No.

9 THE COURT: All right. Would you, madam, take a seat
10 in the back row back there, and we'll call six more, please.

11 THE CLERK: Michelle Fifer.

12 Tatiana Ortiz.

13 Robbin Maynard.

14 Javier Zavala.

15 Donald Buckingham.

16 Mr. Zavala -- okay. He's out of order, just so you
17 know.

18 THE COURT: That's all right. We'll figure it out.

19 THE CLERK: Edward O'Malley. Just six.

20 THE COURT: You are Michelle Fifer; is that correct,
21 madam?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Where do you live?

24 PROSPECTIVE JUROR: Plainfield.

25 THE COURT: And how old are you?

1 PROSPECTIVE JUROR: 46.

2 THE COURT: What is your educational background?

3 PROSPECTIVE JUROR: Some college.

4 THE COURT: And what is your business or occupation?

5 PROSPECTIVE JUROR: Training officer.

6 THE COURT: Are you able to devote three weeks to the
7 trial?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. Have you heard anything about this
10 case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Did you recognize anyone who was
13 introduced to you?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Have you or any family member ever worked
16 in a police capacity?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Have you or any family member ever worked
19 for the City of Chicago?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Have you or any family member ever had a
22 negative experience with a Chicago police officer?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Or with any police officer?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Do you have a view of the City of Chicago
2 police, positive, negative, or neutral? What would you
3 classify your view of Chicago?

4 PROSPECTIVE JUROR: Neutral.

5 THE COURT: Okay. Do you have a -- excuse me. Have
6 you or any family member ever been a crime victim?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Have you or any family member ever been
9 arrested for a serious crime?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Do you know anyone who has committed or
12 attempted suicide?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: And who would that be?

15 PROSPECTIVE JUROR: One of the ladies that go to my
16 church.

17 THE COURT: Okay. So it's not a relative or anybody
18 like that?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Do you know anyone who has suffered a
21 serious traumatic brain injury?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Have you served on a jury before?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Have you ever filed a lawsuit or been

1 sued by someone else?

2 PROSPECTIVE JUROR: No.

3 THE COURT: If plaintiff establishes liability on
4 serious damages, would you be willing to award substantial
5 damages?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: If, on the other hand, the plaintiff
8 fails to establish liability, would you be willing to find in
9 favor of the City of Chicago and award no damages?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Is there any reason you couldn't be a
12 fair and impartial juror in this case?

13 PROSPECTIVE JUROR: No.

14 THE COURT: All right. The next is Tatiana Ortiz?

15 PROSPECTIVE JUROR: Tatiana.

16 THE COURT: Tatiana Ortiz.

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: I think maybe I didn't pronounce that
19 right.

20 PROSPECTIVE JUROR: Yes. It's close enough. It's
21 fine. Tatiana.

22 THE COURT: People have trouble with my name, too.
23 Where do you live?

24 PROSPECTIVE JUROR: The north side of Chicago.

25 THE COURT: And how old are you?

1 PROSPECTIVE JUROR: 28.

2 THE COURT: What is your educational background?

3 PROSPECTIVE JUROR: Bachelor's degree.

4 THE COURT: And what is your business or occupation?

5 PROSPECTIVE JUROR: I'm a special education student
6 classroom assistant.

7 THE COURT: Are you able to devote three weeks to
8 this case?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Okay. Have you heard anything about this
11 case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you recognize anyone who was
14 introduced to you?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Have you or any family member ever worked
17 in a police capacity?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Have you or your family member ever
20 worked for the City of Chicago?

21 PROSPECTIVE JUROR: I work, me and a few relatives
22 work for Chicago Public Schools and at the Chicago Fire
23 Department.

24 THE COURT: Okay. That would be, what, cousins?

25 PROSPECTIVE JUROR: Mother, sister are also teachers,

1 and then --

2 THE COURT: They work for the public schools?

3 PROSPECTIVE JUROR: Yes. And then an uncle is a
4 retired firefighter.

5 THE COURT: Okay. Technically, I don't think the
6 Chicago Public Schools are the same as the City of Chicago,
7 but I understand -- that's good that you included that.

8 Have you or any member of your family ever had a
9 negative experience with a Chicago police officer?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Or with any police officer anywhere?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you have a view of the City of Chicago
14 police, would you classify as negative, positive, or neutral?

15 PROSPECTIVE JUROR: Neutral.

16 THE COURT: Have you or any family member ever been a
17 crime victim?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Have you or any family member ever been
20 arrested for a serious crime?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Do you know anyone who has committed or
23 attempted suicide?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And how -- what would that person be with

1 you, the connection?

2 PROSPECTIVE JUROR: My mother.

3 THE COURT: And did she -- excuse me. Was she
4 successful?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: How long ago did that happen?

7 PROSPECTIVE JUROR: Years, at least like ten years
8 ago.

9 THE COURT: Do you know anyone who has suffered a
10 serious traumatic brain injury?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Have you served on a jury before?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Have you ever filed a lawsuit or been
15 sued?

16 PROSPECTIVE JUROR: No.

17 THE COURT: If plaintiff establishes liability and
18 serious damages, would you be willing to award substantial
19 damages?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: If, on the other hand, plaintiff fails to
22 establish liability, would you be willing to find in favor of
23 the City of Chicago and award no damages?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Is there any reason you couldn't be a

1 fair and impartial juror in this case?

2 PROSPECTIVE JUROR: No, sir.

3 THE COURT: All right. The next lady is Robbin
4 Maynard?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Where do you live?

7 PROSPECTIVE JUROR: The suburbs.

8 THE COURT: All right. And how old are you?

9 PROSPECTIVE JUROR: 58.

10 THE COURT: What is your educational background?

11 PROSPECTIVE JUROR: Some college.

12 THE COURT: And what is your occupation or
13 employment?

14 PROSPECTIVE JUROR: I'm on disability, Social
15 Security.

16 THE COURT: Okay. Are you able to devote three
17 weeks, three to four weeks?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Why not?

20 PROSPECTIVE JUROR: I be in a lot of pain. It's hard
21 to sit a long time. I get pain in my lower back going down to
22 my legs and my hands and arms get numb.

23 THE COURT: All right. I'll excuse you. Thank you.

24 The next gentleman, Javier Zavala.

25 PROSPECTIVE JUROR: Yes, I am, sir.

1 THE COURT: You can stay where you are. That's all
2 right. Where do you live, sir?

3 PROSPECTIVE JUROR: North side of Chicago.

4 THE COURT: How old are you?

5 PROSPECTIVE JUROR: 42.

6 THE COURT: What is your educational background?

7 PROSPECTIVE JUROR: In Mexico, bachelor degree.

8 THE COURT: And what is your employment?

9 PROSPECTIVE JUROR: Uber driver.

10 THE COURT: Are you able to devote three to four
11 weeks for this trial?

12 PROSPECTIVE JUROR: It depends if you consider my --
13 my English language limitation. I cannot follow long
14 conversations.

15 THE COURT: Are you having difficulty following my
16 questioning and listening to it? I mean, how -- what would
17 you say your ability is to comprehend English? As long as
18 people speak clearly, are you able to follow?

19 PROSPECTIVE JUROR: I can follow short conversations
20 but not long conversations.

21 THE COURT: All right. I'll excuse you, sir.

22 PROSPECTIVE JUROR: Thank you, sir.

23 THE COURT: The next gentleman is Donald Buckingham.
24 Where do you live, sir?

25 PROSPECTIVE JUROR: In the northwest suburbs.

1 THE COURT: How old are you?

2 PROSPECTIVE JUROR: 64.

3 THE COURT: What is your educational background?

4 PROSPECTIVE JUROR: CPA for accounting.

5 THE COURT: And what is your business or occupation?

6 PROSPECTIVE JUROR: I'm retired.

7 THE COURT: And are you able to devote three weeks,
8 three or four weeks to this case?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Okay. Have you heard anything about this
11 case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Did you recognize anybody who was
14 introduced to you?

15 PROSPECTIVE JUROR: No, I did not.

16 THE COURT: Have you or any family member ever worked
17 in a police capacity?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Have you or any family member ever worked
20 for the City of Chicago?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Have you or any of your family member, to
23 your knowledge, ever had a negative experience with a Chicago
24 police officer?

25 PROSPECTIVE JUROR: No.

1 THE COURT: With any police officer?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: And just tell us briefly when it was and
4 what was the nature of the dispute.

5 PROSPECTIVE JUROR: My wife was trailed by a police
6 in the north suburbs on her bumper about three feet off for
7 about ten miles, so she stopped the car and got out and walked
8 back and talked to him.

9 THE COURT: And --

10 PROSPECTIVE JUROR: She got, you know, his name and
11 number because he was scaring her.

12 THE COURT: That wouldn't -- let me ask you this.
13 That experience that somebody had, would that have any kind of
14 a negative impact in this case?

15 PROSPECTIVE JUROR: No, not me.

16 THE COURT: Do you have a view of the City of Chicago
17 Police Department, and would you classify it as negative,
18 positive, or neutral?

19 PROSPECTIVE JUROR: Neutral.

20 THE COURT: Okay. Have you or any family member ever
21 been a crime victim?

22 PROSPECTIVE JUROR: I have, yes.

23 THE COURT: And tell us, when it was and what
24 happened.

25 PROSPECTIVE JUROR: It was probably 10 years ago, a

1 guy tried to mug me in New Orleans. He didn't succeed.

2 THE COURT: Did they catch the guy?

3 PROSPECTIVE JUROR: No. He got away.

4 THE COURT: Have you or any family member ever been
5 arrested for a serious crime?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Do you know anyone who has committed or
8 attempted suicide?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: And who would that be?

11 PROSPECTIVE JUROR: A former colleague.

12 THE COURT: And how long ago would that have been?

13 PROSPECTIVE JUROR: That would have been 20 years
14 ago.

15 THE COURT: Do you know anyone who has suffered a
16 serious traumatic brain injury?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Have you been on -- served on a jury
19 before?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Have you ever filed a lawsuit or been
22 sued?

23 PROSPECTIVE JUROR: No.

24 THE COURT: If plaintiff establishes liability and
25 serious damages, would you be willing to award substantial

1 damages?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: If, on the other hand, plaintiff fails to
4 establish liability, would you be willing to find in favor of
5 the City of Chicago and award no damages?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Is there any reason you couldn't be fair?

8 PROSPECTIVE JUROR: No.

9 THE COURT: All right. Let's see.

10 THE CLERK: O'Malley.

11 THE COURT: Edward O'Malley, where do you live, sir?

12 PROSPECTIVE JUROR: DuPage County.

13 THE COURT: And how old are you?

14 PROSPECTIVE JUROR: 51.

15 THE COURT: What's your educational background?

16 PROSPECTIVE JUROR: Bachelor's degree.

17 THE COURT: And what is your employment?

18 PROSPECTIVE JUROR: Private equity.

19 THE COURT: And describe a little bit, what do you do
20 in private equity?

21 PROSPECTIVE JUROR: I have a diverse portfolio, and I
22 judge quarterly.

23 THE COURT: Are you able to devote three weeks or so
24 to this trial?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay. Do you know anything about this
2 case?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Tell us what you know about it or how you
5 know about it.

6 PROSPECTIVE JUROR: Well, I -- it sounds familiar. I
7 recognize some of the names. I recognize the name of the
8 police officer.

9 THE COURT: Okay. Kelly is a relatively common name.

10 PROSPECTIVE JUROR: I know. Is it Pat Kelly?

11 THE COURT: Yes.

12 PROSPECTIVE JUROR: I know four Pat Kelly's. I don't
13 know if --

14 THE COURT: I think we all probably know a Pat Kelly
15 or so.

16 PROSPECTIVE JUROR: I'm not sure. I don't know this
17 officer personally, but I might know somebody who -- I don't
18 know. I don't know.

19 THE COURT: All right. When you say you know of him
20 or you've heard of him --

21 PROSPECTIVE JUROR: I think there was something in
22 the newspaper.

23 THE COURT: There may have been. Did you form any
24 opinions? Let me ask you that.

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: And what type of opinion? When you say
2 you formed an opinion, would it have to do with this specific
3 case?

4 PROSPECTIVE JUROR: I generally, kind of, would back
5 the badge.

6 THE COURT: Okay. I think I'll excuse you, sir.
7 Thank you.

8 THE CLERK: Three more.

9 THE COURT: We need -- would you three take the
10 back -- in the back row, and then we'll call -- how many more
11 do we need? We need three more to fill out our 10.

12 THE CLERK: Peggy Motzko.

13 Can you grab that mike when you go down? Okay.
14 There you go.

15 Barbara Martinez-Romero.

16 Francis Bialas.

17 THE COURT: You are Peggy, is it Motzko?

18 PROSPECTIVE JUROR: Motzko.

19 THE COURT: Motzko. Where do you live?

20 PROSPECTIVE JUROR: Far northern suburbs, Round Lake
21 Beach.

22 THE COURT: How old are you?

23 PROSPECTIVE JUROR: 52.

24 THE COURT: What is your educational background?

25 PROSPECTIVE JUROR: Some college.

1 THE COURT: And what is your employment?

2 PROSPECTIVE JUROR: I'm currently unemployed.

3 THE COURT: What did you do when you last worked?

4 PROSPECTIVE JUROR: Logistics.

5 THE COURT: Okay. Are you able to devote three
6 weeks, three to four weeks to this case?

7 PROSPECTIVE JUROR: At this time, it would be very
8 hard for me to travel. It costs at least \$20 a day on the
9 train.

10 THE COURT: The government will pay you \$50 a day to
11 sit as a juror. Does that -- will that help?

12 PROSPECTIVE JUROR: I think it would be very hard for
13 me. I'm --

14 THE COURT: Would you be able to do it then? Based
15 on -- you will get, is it --

16 THE CLERK: I'm not quite sure, Judge.

17 THE COURT: It's around \$50 anyway. Anyway, it's
18 more than 20. I know that. I think it's 50. So would that
19 make it possible for you to sit as a juror?

20 PROSPECTIVE JUROR: I also have lower back issues.

21 THE COURT: Pardon?

22 PROSPECTIVE JUROR: I also have lower back issues.

23 THE COURT: All right. I'll excuse you. Thank you.

24 THE CLERK: I'll just call another one. Victoria
25 Mentgen, M-e-n-t-g-e-n. You can -- Ms. Motzko, you can leave

1 for the day and call the jury department tomorrow.

2 THE COURT: You are Barbara Martinez-Romero; is that
3 correct?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Where do you live?

6 PROSPECTIVE JUROR: I live in Calumet City.

7 THE COURT: How old are you?

8 PROSPECTIVE JUROR: I'm 24.

9 THE COURT: What is your educational background?

10 PROSPECTIVE JUROR: Some college.

11 THE COURT: And what is your business or employment?

12 PROSPECTIVE JUROR: I'm a nurse assistant at Christ
13 part-time. I'm also a full-time student at St. Xavier
14 University.

15 THE COURT: Are you able to devote three to four
16 weeks to this case?

17 PROSPECTIVE JUROR: I am not.

18 THE COURT: Why is that?

19 PROSPECTIVE JUROR: Currently, I'm on my last
20 semester of completing nursing school. I'm taking a
21 seven-week course which will end in about three weeks roughly,
22 and within that time, I have two exams and clinical --

23 THE COURT: All right. I'll excuse you.

24 PROSPECTIVE JUROR: Thank you.

25 THE COURT: The next gentleman is Francis Bialas.

1 Did I pronounce it right?

2 PROSPECTIVE JUROR: Yes, Bialas.

3 THE COURT: Bialas. Where do you live, sir?

4 PROSPECTIVE JUROR: I live in Orland Park.

5 THE COURT: How old are you?

6 PROSPECTIVE JUROR: 64.

7 THE COURT: What is your educational background.

8 PROSPECTIVE JUROR: I have a college degree.

9 THE COURT: And what is your business or occupation?

10 PROSPECTIVE JUROR: I work for United Parcel Service.

11 THE COURT: Are you able to devote three weeks or
12 more to this case?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. Have you heard anything about this
15 case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Did you recognize anybody who was
18 introduced to you?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Have you or any family member worked in a
21 police capacity?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Have you or any of your family members
24 ever worked for the City of Chicago?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Have you or any family member ever had a
2 negative experience with a Chicago police officer?

3 PROSPECTIVE JUROR: No.

4 THE COURT: How about any police officer anywhere?

5 PROSPECTIVE JUROR: No.

6 THE COURT: All right. Your view of the City of
7 Chicago Police Department, would you classify it as negative,
8 positive, or neutral?

9 PROSPECTIVE JUROR: Neutral.

10 THE COURT: Have you or any family member ever been a
11 crime victim?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Have you or any family member ever been
14 arrested for a serious crime?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Do you know anyone who has committed or
17 attempted suicide?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Do you know anyone who has suffered a
20 serious traumatic brain injury?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Have you served on a jury before?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Have you ever filed a lawsuit or been
25 sued?

1 PROSPECTIVE JUROR: No.

2 THE COURT: If plaintiff establishes liability and
3 serious damages, would you be willing to award him substantial
4 damages?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: If, on the other hand, plaintiff fails to
7 establish liability, would you be willing to find in favor of
8 the City of Chicago and award no damages?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Is there any reason you couldn't be a
11 fair and impartial juror in this case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Okay. The next lady is Victoria, is it
14 Mentgen? Did I pronounce that right?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Where do you live?

17 PROSPECTIVE JUROR: Joliet.

18 THE COURT: How old are you?

19 PROSPECTIVE JUROR: 48.

20 THE COURT: What is your educational background?

21 PROSPECTIVE JUROR: Bachelor's degree.

22 THE COURT: And your business or occupation?

23 PROSPECTIVE JUROR: I'm an accountant.

24 THE COURT: Are you able to devote three to four
25 weeks for this case?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Okay. Have you heard anything about this
3 case?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Did you recognize anyone who was
6 introduced to you?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Have you or any family member ever worked
9 in a police capacity?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Have you or any family member ever worked
12 for the City of Chicago?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Have you or any family member ever had
15 any negative experience with a Chicago police officer?

16 PROSPECTIVE JUROR: No.

17 THE COURT: How about any police officer anywhere?

18 PROSPECTIVE JUROR: No.

19 THE COURT: All right. Do you have a view of the
20 City of Chicago Police Department, and would you classify it
21 as negative, positive, or neutral?

22 PROSPECTIVE JUROR: Neutral.

23 THE COURT: All right. Have you or any family member
24 ever been a crime victim?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Have you or a family member ever been
2 arrested for a serious crime?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Do you know anyone who has committed or
5 attempted suicide?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Do you know anyone who has suffered a
8 serious traumatic brain injury?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Have you served on a jury before?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: When and where?

13 PROSPECTIVE JUROR: Probably about 10 years ago. It
14 was a domestic violence case.

15 THE COURT: That was a --

16 PROSPECTIVE JUROR: It was a Will County court case.

17 THE COURT: Criminal case?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay. You actually decided the case?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. Have you ever filed a lawsuit or
22 been sued?

23 PROSPECTIVE JUROR: No.

24 THE COURT: If plaintiff establishes liability on
25 serious damages, would you be willing to award substantial

1 damages?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: If, on the other hand, the plaintiff
4 fails to establish liability, would you be willing to find in
5 favor of the City of Chicago and award no damages?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Is there any reason you couldn't be fair
8 and impartial in this case?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Thank you.

11 Let's see.

12 THE CLERK: We need to call one more. Michael
13 Mansell. And that's 10.

14 THE COURT: You are Michael Mansell; is that correct,
15 sir?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Where do you live, sir?

18 PROSPECTIVE JUROR: North side, northern Lake County.

19 THE COURT: Okay. How old are you?

20 PROSPECTIVE JUROR: 51.

21 THE COURT: What's your educational background?

22 PROSPECTIVE JUROR: Master's degree.

23 THE COURT: And what is your business or occupation?

24 PROSPECTIVE JUROR: Teacher.

25 THE COURT: Where do you teach or what level?

1 PROSPECTIVE JUROR: I teach at Libertyville High
2 School.

3 THE COURT: Okay. What do you teach, what subject?

4 PROSPECTIVE JUROR: Social studies, government, U.S.
5 history, consumer ed, and geography.

6 THE COURT: Are you able to devote three to four
7 weeks to this case?

8 PROSPECTIVE JUROR: If needed, yes.

9 THE COURT: Okay. Do you know anything about this
10 case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Did you recognize anybody who was
13 introduced to you?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Have you or any of your family members
16 ever worked in a police capacity?

17 PROSPECTIVE JUROR: In the '80s, I interned with the
18 district State police.

19 THE COURT: That was the State police; is that right?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: But you did not --

22 PROSPECTIVE JUROR: That was just through school. It
23 was an internship.

24 THE COURT: Okay. Have you or any family member ever
25 worked for the City of Chicago?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Have you or any family member ever had a
3 negative experience with a Chicago police officer?

4 PROSPECTIVE JUROR: No.

5 THE COURT: How about a police officer anywhere?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Have you -- your view of the City of
8 Chicago Police Department, would you classify it as negative,
9 positive, or neutral?

10 PROSPECTIVE JUROR: Neutral.

11 THE COURT: Have you or any family member ever been a
12 crime victim?

13 PROSPECTIVE JUROR: In the '80s, I had my car broken
14 into.

15 THE COURT: Okay. Did they ever catch the guy?

16 PROSPECTIVE JUROR: No. Then got away.

17 THE COURT: Have you or any family member ever been
18 arrested for a serious crime?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Do you know anyone who has committed or
21 attempted suicide?

22 PROSPECTIVE JUROR: Multiple people.

23 THE COURT: When you say "multiple people" --

24 PROSPECTIVE JUROR: I work with at-risk kids, so I've
25 had students that have committed suicide. I had a friend when

1 I growing up that committed suicide, and I witnessed a
2 Northwestern police officer shoot himself.

3 THE COURT: Do you know anyone who has suffered a
4 serious traumatic brain injury?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Have you served on a jury before?

7 PROSPECTIVE JUROR: No, I haven't.

8 THE COURT: Have you filed a lawsuit or -- ever file
9 a lawsuit or have you ever been sued?

10 PROSPECTIVE JUROR: No.

11 THE COURT: If plaintiff establishes liability and
12 serious damages, would you be willing to award substantial
13 damages?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: If, on the other hand, plaintiff fails to
16 establish liability, would you be willing to find in favor of
17 the City of Chicago and award no damages?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay. Is there any reason you couldn't
20 be fair and impartial?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Could I see the lawyers at a sidebar,
23 please?

24 (Proceedings heard at sidebar:)

25 THE COURT: Any additional questions you wish me to

1 ask?

2 MR. ROMANUCCI: Yes, your Honor. I mean, if we start
3 with just Mr. Mansell right now, he indicated that he was
4 with -- has multiple people that he knows that have attempted
5 suicide. I believe that he would have some special knowledge,
6 so I would ask either for a motion for cause now or if your
7 Honor denies that, at least to ask the questions to determine
8 whether or not he could be excused for cause based upon his
9 special knowledge of working with people who are at risk and
10 attempt suicide.

11 THE COURT: I'm not sure. What do you want me to ask
12 him again?

13 MR. ROMANUCCI: Mr. Mansell?

14 THE COURT: Yes.

15 MR. ROMANUCCI: What his special knowledge is.

16 THE COURT: He said "at risk," but I'll ask him to
17 clarify it.

18 MR. ROMANUCCI: Please.

19 THE COURT: I will not excuse him for cause, at least
20 at this point.

21 MR. ROMANUCCI: At this point. Ms. Mentgen, Victoria
22 Mentgen, she sat on a jury on a domestic violence case,
23 whether or not sitting on that case, if she hears evidence in
24 this case about domestic violence would cause any negative or
25 positive experiences for her.

1 THE COURT: I'll think about that one.

2 MR. ROMANUCCI: Then there were several people,
3 Ms. Tatiana Ortiz, Mr. Buckingham, and Ms. Cano, all three of
4 them indicated that they knew someone who had committed
5 suicide. Again, would having that experience, you know,
6 hearing the evidence in this case affect them one way or
7 another.

8 THE COURT: Which ones were those again? I just want
9 to get the names.

10 MR. ROMANUCCI: Tatiana Ortiz, Mr. Buckingham, and
11 then Maribel Cano.

12 THE COURT: She said she knew somebody who --

13 MS. ROSEN: Her cousin.

14 THE COURT: All right.

15 MS. ROSEN: And then Fifer also said somebody at
16 church.

17 THE COURT: Yes. I think that we have her. Fifer,
18 she's the banker. It wasn't the church one, was it?

19 MS. ROSEN: Training officer, Fifer.

20 MR. ROMANUCCI: Which one, your Honor?

21 MS. ROSEN: Fifer.

22 THE COURT: Was that suicide?

23 MR. ROMANUCCI: Yes. She said she knew somebody. I
24 think I missed that one.

25 THE COURT: All right.

1 MR. ROMANUCCI: And then also Ms. Cano, she said
2 she's a paralegal, what law firm and what type of practice do
3 they have.

4 THE COURT: What about you, any -- anything? We're
5 doing actually a little better than I thought, people willing
6 to sit.

7 All right. I'll ask those questions.

8 MR. ROMANUCCI: All right. Your Honor, on
9 Ms. Guerrero, I don't think we got where she teaches, Nicole
10 Guerrero.

11 MS. ROSEN: Judge, if we could ask just everybody if
12 they have any knowledge of anybody that's experienced domestic
13 violence.

14 THE COURT: That has experienced domestic violence?

15 MS. ROSEN: Knows of anybody who has had -- you know,
16 knows of somebody that's been the victim of domestic violence
17 or has been accused of domestic violence.

18 THE COURT: All right. I'll ask that.

19 (Proceedings heard in open court:)

20 THE COURT: I've been asked to ask a few follow-up
21 questions. One of the questions for all of you because I
22 didn't ask this specifically, are any of -- do any of you have
23 knowledge of specific instances where -- of domestic violence?

24 Apparently, no one. All right.

25 Then Ms. Cano, the question came up, what law firm do

1 you work for, and what type of law do they practice?

2 PROSPECTIVE JUROR: I work at law, Elder law.

3 THE CLERK: I think it was cut off. See if that

4 switch --

5 THE COURT: Elder law?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Let's see. You knew someone who
8 committed suicide, is that --

9 PROSPECTIVE JUROR: Yes, correct.

10 THE COURT: And how long ago was that?

11 PROSPECTIVE JUROR: I'd say like eight to ten years
12 ago maybe.

13 THE COURT: All right. Would that -- do you have any
14 strong views about suicide, what causes suicide or anything
15 like that?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Also, Michelle Fifer, you knew someone
18 who committed suicide; is that correct?

19 PROSPECTIVE JUROR: She wasn't successful.

20 THE COURT: Pardon?

21 PROSPECTIVE JUROR: Yes. She wasn't successful.

22 THE COURT: Is there any -- do you have any special
23 knowledge about suicide as a gain from that knowledge?

24 PROSPECTIVE JUROR: No, not really.

25 THE COURT: And Tatiana Ortiz, I believe you knew

1 someone who committed suicide; is that correct?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Do you have any knowledge about suicide
4 or what causes people to do that or anything like that?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Okay. Ms. Guerrero, where do you teach?

7 PROSPECTIVE JUROR: I teach in Glen Ellyn. I'm an
8 eighth grade math teacher.

9 THE COURT: Okay. And Mr. Buckingham, you know
10 someone who committed suicide; is that correct?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Do you have any specialized knowledge
13 about suicide or anything like that?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Ms. Mentgen, you were on a jury, domestic
16 violence case. Can you give us a little more information on
17 that? Do you remember what the case was about? I mean, was
18 it a husband/wife?

19 PROSPECTIVE JUROR: It was a husband/wife issue.
20 Yeah, it was just --

21 THE COURT: How long ago was that?

22 PROSPECTIVE JUROR: About ten years ago.

23 THE COURT: Okay. Did you form any opinions as to
24 the cause of domestic violence or anything like that as a
25 result?

1 PROSPECTIVE JUROR: No.

2 THE COURT: I believe that's it. Do you want to
3 indicate your choices, please?

4 (Pause.)

5 THE COURT: All right. The following will be
6 excused: Michael Mansell, Donald Buckingham, Tatiana Ortiz,
7 and Victoria Mentgen.

8 Will the rest of you please stand and be sworn.

9 (Jurors sworn.)

10 THE CLERK: Okay. You can be seated.

11 THE COURT: So we need four more. Would you, sir,
12 take a seat in the back row, please?

13 THE CLERK: Jacqueline Dye.

14 Sally Berardi.

15 Rafael Marquez.

16 And Estella Abundiz.

17 THE COURT: You are Jacqueline Dye; is that correct?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Where do you live, ma'am?

20 PROSPECTIVE JUROR: Bensenville.

21 THE COURT: And how old are you?

22 PROSPECTIVE JUROR: 39.

23 THE COURT: What is your educational background?

24 PROSPECTIVE JUROR: College diploma.

25 THE COURT: What is your business or occupation?

1 PROSPECTIVE JUROR: I am a prayer minister.

2 THE COURT: Okay. Are you able to devote three to
3 four weeks to this case?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Have you heard anything about this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Do you recognize anybody who was
8 introduced to you?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Have you or any family member ever --
11 excuse me, ever worked in a police capacity?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Have you or any family member ever worked
14 for the City of Chicago?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Have you or any family member ever had a
17 negative experience with a Chicago police officer?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Do you have -- or any police officer, for
20 that matter?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Your view of the City of Chicago Police
23 Department, would you classify it as negative, positive, or
24 neutral?

25 PROSPECTIVE JUROR: Neutral.

1 THE COURT: Have you or any family member ever been a
2 crime victim?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: And tell us when and what the
5 circumstances were.

6 PROSPECTIVE JUROR: About ten years ago, when I was
7 living in the city, my home was broken into, and my car was
8 stolen.

9 THE COURT: Did they catch the person?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Have you or any family member been
12 arrested for a serious crime?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Do you know anyone who has committed or
15 attempted to commit suicide?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Do you know anyone who has suffered a
18 serious traumatic brain injury?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Have you served on a jury before?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Have you ever filed a lawsuit or have you
23 ever been sued?

24 PROSPECTIVE JUROR: No.

25 THE COURT: If plaintiff establishes liability and

1 serious damages, would you be willing to award substantial
2 damages?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: If, on the other hand, plaintiff fails to
5 establish liability, would you be willing to find in favor of
6 the City of Chicago and award no damages?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Is there any reason you couldn't be a
9 fair and impartial juror in this case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: The next lady, Sally Berardi.

12 PROSPECTIVE JUROR: That's correct.

13 THE COURT: Where do you live?

14 PROSPECTIVE JUROR: St. Charles.

15 THE COURT: How old are you?

16 PROSPECTIVE JUROR: 64.

17 THE COURT: What's your educational background?

18 PROSPECTIVE JUROR: Some college.

19 THE COURT: And what is your business or occupation?

20 PROSPECTIVE JUROR: I'm a photographer/printer.

21 THE COURT: Are you able to devote three to four
22 weeks to this case?

23 PROSPECTIVE JUROR: This would be really hard. My
24 husband's 82 and has emphysema and really relies on me.

25 THE COURT: All right. I'll excuse you. Thank you.

1 The next person is Rafael Marquez?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Where do you live, sir?

4 PROSPECTIVE JUROR: In Cicero.

5 THE COURT: And how old are you, sir?

6 PROSPECTIVE JUROR: 56.

7 THE COURT: What is your educational background?

8 PROSPECTIVE JUROR: Not good. Mexico.

9 THE COURT: And what was it?

10 PROSPECTIVE JUROR: High school.

11 THE COURT: Okay. And what is your business or
12 occupation here, sir?

13 PROSPECTIVE JUROR: Well, I just got a new job, for,
14 like, a year, I got a new job, and they just hired me
15 permanent, like, two months ago.

16 THE COURT: So you -- would it be difficult for you
17 to devote three to four weeks?

18 PROSPECTIVE JUROR: I would.

19 THE COURT: I'll excuse you, sir.

20 PROSPECTIVE JUROR: Thank you.

21 THE COURT: The next lady, Estella Abundiz?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Did I pronounce that right?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Where do you live?

1 PROSPECTIVE JUROR: I live in Palatine.

2 THE COURT: How old are you?

3 PROSPECTIVE JUROR: I'm 63.

4 THE COURT: What's your educational background?

5 PROSPECTIVE JUROR: I'm retired -- oh, I'm sorry.

6 High school.

7 THE COURT: And what is your -- you are retired; is
8 that correct?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Okay. Are you able to devote three to
11 four weeks to this case?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Pardon?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay. Do you know anything about this
16 case?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Have you -- did you recognize anybody who
19 was introduced to you?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Have you or your family ever worked in a
22 police capacity?

23 PROSPECTIVE JUROR: No.

24 THE COURT: And have you or any of your family
25 members ever worked for the City of Chicago?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Have you or any family member had a
3 negative experience with a Chicago police officer?

4 PROSPECTIVE JUROR: No.

5 THE COURT: How about a police officer anywhere?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Okay. Your view of the City of Chicago
8 Police Department, would you describe it as negative,
9 positive, or neutral?

10 PROSPECTIVE JUROR: Positive.

11 THE COURT: So you don't have any strong views
12 against the Chicago Police Department, do you think?

13 PROSPECTIVE JUROR: I have a positive view because I
14 have -- they have always helped me and --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: I don't have anything bad to say
17 about them.

18 THE COURT: Okay. That's fine. That's good. Have
19 you or your family member ever been a crime victim?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Have you or your family member ever been
22 arrested for a serious crime?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Do you know anyone who has committed or
25 attempted to commit suicide?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Do you know anyone who has suffered a
3 serious traumatic brain injury?

4 PROSPECTIVE JUROR: No, no.

5 THE COURT: Have you served on a jury before?

6 PROSPECTIVE JUROR: Like six years ago, a car
7 accident.

8 THE COURT: Somebody was asking money damages as a
9 result?

10 PROSPECTIVE JUROR: Yes, yes.

11 THE COURT: Was that at -- in Chicago?

12 PROSPECTIVE JUROR: Yes, the Daley Center.

13 THE COURT: Okay. You sat on the jury and decided;
14 is that correct?

15 PROSPECTIVE JUROR: Yes, but our group was let go
16 before they decided the case.

17 THE COURT: Oh, they settled it before you decided?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay. That sometimes happens.

20 Have you ever filed a lawsuit, or have you ever been
21 sued?

22 PROSPECTIVE JUROR: No.

23 THE COURT: If plaintiff establishes liability and
24 serious damages, would you be willing to award substantial
25 damages to him?

1 PROSPECTIVE JUROR: Yes, yes.

2 THE COURT: If, on the other hand, he fails to
3 establish liability, would you be willing to find in favor of
4 Chicago and award no damages?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Any reason you couldn't be a fair and
7 impartial juror in this case?

8 PROSPECTIVE JUROR: No.

9 THE COURT: All right. Would you call one more,
10 Wanda?

11 THE CLERK: We need two.

12 THE COURT: Two more, yes. Sorry.

13 THE CLERK: Laurel Larsen.

14 And Creon Creonopoulos.

15 THE COURT: You are Laurel Larsen; is that correct?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Where do you live?

18 PROSPECTIVE JUROR: Northwest side of Chicago.

19 THE COURT: And how old are you?

20 PROSPECTIVE JUROR: 56.

21 THE COURT: What is your educational background?

22 PROSPECTIVE JUROR: College.

23 THE COURT: And what is your business or occupation?

24 PROSPECTIVE JUROR: I'm a part-time pharmacist.

25 THE COURT: Are you able to devote three to four

1 weeks to this case?

2 PROSPECTIVE JUROR: Well, in this case it would be a
3 financial hardship because I don't get paid as a part-timer.
4 I would lose wages.

5 THE COURT: Okay. I'll excuse you. Thank you.

6 The next gentleman, is it Creon Creonopoulos?

7 PROSPECTIVE JUROR: Correct.

8 THE COURT: Did I pronounce it right?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Where do you live, sir?

11 PROSPECTIVE JUROR: Near north side.

12 THE COURT: How old are you?

13 PROSPECTIVE JUROR: I'm 28.

14 THE COURT: What is your educational background?

15 PROSPECTIVE JUROR: Bachelor's degree.

16 THE COURT: What is your business or occupation?

17 PROSPECTIVE JUROR: I'm a software developer.

18 THE COURT: Are you able to devote three to four
19 weeks to this case?

20 PROSPECTIVE JUROR: I believe so, yes.

21 THE COURT: Okay. Have you heard anything about this
22 case?

23 PROSPECTIVE JUROR: I have not.

24 THE COURT: Did you recognize anyone who was
25 introduced to you?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Have you or any family member ever worked
3 in a police capacity?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Have you or your family member ever
6 worked for the City of Chicago?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Have you or any family member ever had a
9 negative experience with a Chicago police officer?

10 PROSPECTIVE JUROR: No.

11 THE COURT: How about any police officer anywhere?

12 PROSPECTIVE JUROR: Nope.

13 THE COURT: Do you have -- your view of the City of
14 Chicago police, would you classify it as negative, positive,
15 or neutral?

16 PROSPECTIVE JUROR: Neutral.

17 THE COURT: Have you or your family member ever been
18 a crime victim?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Have you or your family member ever been
21 arrested for a serious crime?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Do you know anyone who has committed or
24 attempted to commit suicide?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Do you know anyone who has suffered a
2 serious traumatic brain injury?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Have you served on a jury before?

5 PROSPECTIVE JUROR: I have not.

6 THE COURT: Have you ever filed a lawsuit or been
7 sued?

8 PROSPECTIVE JUROR: No.

9 THE COURT: If plaintiff establishes liability and
10 serious damages, would you be willing to award substantial
11 damages?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: If, on the other hand, plaintiff fails to
14 establish liability, would you be willing to find in favor of
15 the City of Chicago and award no damages?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Is there any reason you couldn't be fair
18 to either side?

19 PROSPECTIVE JUROR: No.

20 THE COURT: All right. What do we need, two more?

21 THE CLERK: One more. Brett White.

22 THE COURT: You are Brett White?

23 PROSPECTIVE JUROR: Correct.

24 THE COURT: Where do you live, sir?

25 PROSPECTIVE JUROR: Lake County.

1 THE COURT: And how old are you?

2 PROSPECTIVE JUROR: 40.

3 THE COURT: What is your educational background?

4 PROSPECTIVE JUROR: High school.

5 THE COURT: And what is your business or occupation?

6 PROSPECTIVE JUROR: Garbage man.

7 THE COURT: You work for a private or city or
8 municipal or what?

9 PROSPECTIVE JUROR: It's private.

10 THE COURT: Okay. Have you -- are you able to devote
11 three to four weeks to this case?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: And have you heard anything about this
14 case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Did you recognize anyone who was
17 introduced to you?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Have you or any family member ever worked
20 in a police capacity?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Have you or any family member ever worked
23 for the City of Chicago?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Have you or any family member ever had,

1 to your knowledge, a negative experience with a Chicago police
2 officer?

3 PROSPECTIVE JUROR: No.

4 THE COURT: How about a police officer anywhere?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Do you have a view -- your view of the
7 City of Chicago Police Department, would you consider it
8 negative, positive, or neutral?

9 PROSPECTIVE JUROR: Neutral.

10 THE COURT: Okay. Have you or any family member ever
11 been a crime victim?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Have you or any family member ever been
14 arrested for a serious crime?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Do you know anyone who has committed or
17 attempted suicide?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Do you know anyone who has suffered a
20 serious traumatic brain injury?

21 PROSPECTIVE JUROR: Nope.

22 THE COURT: Have you served on a jury before?

23 PROSPECTIVE JUROR: Nope.

24 THE COURT: Have you ever filed a lawsuit or been
25 sued?

1 PROSPECTIVE JUROR: No.

2 THE COURT: If plaintiff establishes liability and
3 serious damages, would you be willing to award substantial
4 damages?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: If, on the other hand, plaintiff fails to
7 establish liability, would you be willing to find in favor of
8 the City of Chicago and award no damages?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Any reason you couldn't be fair to either
11 side?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Okay. Could I see the lawyers at
14 sidebar, please?

15 (Proceedings heard at sidebar:)

16 THE COURT: These all seem pretty -- any specific
17 questions you want to follow up?

18 MR. ROMANUCCI: With respect to Estella Abundiz, your
19 Honor, if you could follow up asking her about why she had
20 positive experiences with the police. She's the only juror so
21 far who has indicated that she feels positively about police,
22 whereas everyone else --

23 THE COURT: Is neutral.

24 MR. ROMANUCCI: And then also, what sort of
25 occupation. We certainly want to know whether or not those

1 positive experiences with the police would affect her ability
2 to sit.

3 THE COURT: All right.

4 MS. ROSEN: And then, Judge, if we could get
5 follow-up to Ms. Dye, she says she's a prayer minister. If
6 you could ask her what that is and if there's a particular
7 church that she's affiliated with.

8 THE COURT: All right. Is that it? Okay. Thank
9 you.

10 (Proceedings heard in open court:)

11 THE COURT: Just a couple of follow-up questions.

12 Ms. Dye, what exactly do you do as a prayer minister?

13 PROSPECTIVE JUROR: We have -- my pastor has a call
14 center where people call in for prayer. I answer the phones.

15 THE COURT: What church is that?

16 PROSPECTIVE JUROR: Living Word Christian Center in
17 Forest Park.

18 THE COURT: Okay. Thank you.

19 Ms. Abundiz, what was your occupation prior to
20 retiring?

21 PROSPECTIVE JUROR: I used to work for the State's
22 Attorney's Office.

23 THE COURT: Where?

24 PROSPECTIVE JUROR: Child support division, 28 North
25 Clark.

1 THE COURT: Okay. And you have had positive
2 experiences with the City of Chicago police; is that right?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: And what -- can you tell us what the --
5 causes you to view the Chicago police in a positive view? Is
6 there any specific instances, working with --

7 PROSPECTIVE JUROR: Yes. Because -- well, there's
8 many instances, but one of them is we were having trouble with
9 the tenants, and the police came. And they were very clear
10 that we were in the right, so --

11 THE COURT: All right. What exactly did you do for
12 the State's Attorney?

13 PROSPECTIVE JUROR: I was a data entry clerk.

14 THE COURT: Okay. Thank you.

15 (Pause.)

16 THE COURT: All right. Ms. Dye will be excused, and
17 Ms. Abundiz will be excused.

18 You can swear in the other two, and we need two more.

19 THE CLERK: Can you raise your right hands?

20 (Jurors sworn.)

21 THE COURT: You can be seated there.

22 Call two more, please.

23 THE CLERK: Biren Patel.

24 And Richard Roth.

25 THE COURT: The second gentleman, you're Biren Patel?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Where do you live, sir?

3 PROSPECTIVE JUROR: Glendale Heights.

4 THE COURT: How old are you?

5 PROSPECTIVE JUROR: 34.

6 THE COURT: What's your educational background?

7 PROSPECTIVE JUROR: Bachelor's in mechanical
8 engineering.

9 THE COURT: And what is your business or occupation?

10 PROSPECTIVE JUROR: Currently, unemployed.

11 THE COURT: Are you able to devote three to four
12 weeks to this case?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. And have you heard anything about
15 this case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: What was your occupation before you --
18 what did you previously do?

19 PROSPECTIVE JUROR: Project management consulting.

20 THE COURT: What type of projects, can you give a
21 little description?

22 PROSPECTIVE JUROR: Life science, industrial, really
23 just about anything that the companies would hire us for.

24 THE COURT: All right.

25 PROSPECTIVE JUROR: Product development, research and

1 development.

2 THE COURT: All right. Have you heard anything about
3 this case?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Did you recognize anyone who was
6 introduced to you?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Have you or any family member ever worked
9 in a police capacity?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Have you or any family member ever worked
12 for the City of Chicago?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Have you or any family member ever had a
15 negative experience with a Chicago police officer?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: And when was that, and can you give us a
18 brief description of what it was about?

19 PROSPECTIVE JUROR: About 2008, Christmastime, it was
20 actually me. I was in the city of Chicago driving going over
21 to a church event, and I was pulled over, and the police
22 department had -- well, the police officers had started asking
23 me questions if I stole the vehicle or not even though I was
24 in a suit and it was my own vehicle. And they also searched
25 my car and everything.

1 THE COURT: All right. That experience, would that
2 have an impact on you in being fair in this case?

3 PROSPECTIVE JUROR: I want to say it shouldn't, but I
4 wouldn't be able to give you a 100 percent definitive answer.

5 THE COURT: All right. I'll excuse you, sir.

6 The next gentleman is Richard Roth; is that correct,
7 sir?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Where do you live, sir?

10 PROSPECTIVE JUROR: Waukegan.

11 THE COURT: How old are you?

12 PROSPECTIVE JUROR: 52.

13 THE COURT: What is your educational background?

14 PROSPECTIVE JUROR: High school.

15 THE COURT: And your employment, sir?

16 PROSPECTIVE JUROR: State of Illinois.

17 THE COURT: And what do you do for the State?

18 PROSPECTIVE JUROR: I'm an equipment operator.

19 THE COURT: Are you able to devote three to four
20 weeks to this case?

21 PROSPECTIVE JUROR: It could be difficult. Me and my
22 wife are guardians for an adult disabled child, and we work
23 opposite shifts so we can take care of him.

24 THE COURT: All right. I'll excuse you, sir. Thank
25 you.

1 Call two more, please.

2 THE CLERK: James Jervis.

3 And Elizabeth Carter-Marriner.

4 THE COURT: Sir, would you take the first seat? You
5 are James Jervis; is that correct, sir?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Where do you live, sir?

8 PROSPECTIVE JUROR: Shorewood, Illinois.

9 THE COURT: And how old are you?

10 PROSPECTIVE JUROR: 31.

11 THE COURT: What is your educational background?

12 PROSPECTIVE JUROR: College.

13 THE COURT: And what is your business or occupation?

14 PROSPECTIVE JUROR: Diesel mechanic, shop foreman.

15 THE COURT: Are you able to devote three weeks for
16 this trial?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Pardon?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Okay. I'll excuse you.

21 The next person is Elizabeth Carter-Marriner?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Where do you live?

24 PROSPECTIVE JUROR: Aurora, Illinois.

25 THE COURT: How old are you?

1 PROSPECTIVE JUROR: 54.

2 THE COURT: What is your educational background?

3 PROSPECTIVE JUROR: 12 years.

4 THE COURT: And what is your business or employment?

5 PROSPECTIVE JUROR: Senior customer service at

6 Fifth/Third.

7 THE COURT: Who do you work for?

8 PROSPECTIVE JUROR: Fifth/Third Bank.

9 THE COURT: Are you able to devote three weeks or
10 more to this case?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Have you heard about this case?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: Do you -- did you recognize anybody who
15 was introduced to you?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Have you or a family member ever worked
18 in a police capacity?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Have you or any family member ever worked
21 for the City of Chicago?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Have you or your family member ever had a
24 negative experience with a Chicago police officer?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Any police officer anywhere?

2 PROSPECTIVE JUROR: No, sir.

3 THE COURT: Do you have a view of the City of Chicago
4 police and, if so, is it negative, positive, or neutral?

5 PROSPECTIVE JUROR: Neutral.

6 THE COURT: Have you or your family member ever been
7 a crime victim?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: Have you or any family member ever been
10 arrested for a serious crime?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Do you know anyone who has committed or
13 attempted suicide?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Do you know anyone who has suffered a
16 serious traumatic brain injury?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Have you served on a jury before?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Have you ever filed a lawsuit or been
21 sued?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: If plaintiff establishes liability and
24 serious damages, would you be willing to award substantial
25 damages?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: If, on the other hand, the plaintiff
3 fails to establish liability, would you be willing to find in
4 favor of the City of Chicago and award no damages?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Any reason you couldn't be fair to either
7 side in this case?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: Would you call one more, please?

10 THE CLERK: Trina Stauersboll.

11 THE COURT: My name is somewhat difficult, too.

12 PROSPECTIVE JUROR: Yeah. I just --

13 THE COURT: Trina Stauersboll-Heredia?

14 PROSPECTIVE JUROR: Heredia.

15 THE COURT: How close?

16 PROSPECTIVE JUROR: You are -- Stauersboll is
17 perfect, but Heredia.

18 THE COURT: Heredia?

19 PROSPECTIVE JUROR: Heredia.

20 THE COURT: Okay. Where do you live?

21 PROSPECTIVE JUROR: South suburbs.

22 THE COURT: And how old are you?

23 PROSPECTIVE JUROR: 40.

24 THE COURT: What is your educational background?

25 PROSPECTIVE JUROR: High school.

1 THE COURT: And what is your business or occupation?

2 PROSPECTIVE JUROR: I own a salon.

3 THE COURT: Are you able to devote three to four
4 weeks?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Would that be a financial hardship on
7 you?

8 PROSPECTIVE JUROR: I'm the only employee there. I'm
9 self-employed, so I'm closed today.

10 THE COURT: All right. I'll excuse you. Thank you.
11 Call one more, please.

12 THE CLERK: Susan Sternal.

13 No? Oh, there we go. You can come up this way,
14 through the middle and around.

15 PROSPECTIVE JUROR: This is never going to be
16 comfortable, to walk up through the middle.

17 THE COURT: You are Susan Sternal?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Where do you live?

20 PROSPECTIVE JUROR: Garfield Ridge.

21 THE COURT: And how old are you?

22 PROSPECTIVE JUROR: 47.

23 THE COURT: What is your educational background?

24 PROSPECTIVE JUROR: Bachelor's.

25 THE COURT: And what is your business or occupation?

1 PROSPECTIVE JUROR: I'm a service technician in a
2 retail store.

3 THE COURT: What type of retail?

4 PROSPECTIVE JUROR: I work at Apple.

5 THE COURT: Pardon?

6 PROSPECTIVE JUROR: I work at Apple.

7 THE COURT: Oh, okay. Are you able to devote three
8 weeks or so to this trial?

9 PROSPECTIVE JUROR: I am not. I have elderly
10 parents, and I have a dog that is having surgery on her back
11 legs tomorrow morning. I was trying to find another ride for
12 them to get --

13 THE COURT: I'll excuse you. Thank you.

14 Call one more, please.

15 THE CLERK: Kristina Finnerman.

16 THE COURT: You are Kristina Finnerman; is that
17 correct?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Where do you live?

20 PROSPECTIVE JUROR: North suburbs.

21 THE COURT: How old are you?

22 PROSPECTIVE JUROR: 27.

23 THE COURT: What is your educational background?

24 PROSPECTIVE JUROR: Bachelor's degree.

25 THE COURT: And what is your business or occupation?

1 PROSPECTIVE JUROR: Special education teacher.

2 THE COURT: All right. Are you able to devote three
3 weeks or so to this trial?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Do you -- have you heard anything about
6 this case?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Did you recognize anyone who was
9 introduced?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Who was that?

12 PROSPECTIVE JUROR: Marty Gould. I went to high
13 school with him.

14 THE COURT: That was -- when was that?

15 PROSPECTIVE JUROR: Almost ten years ago.

16 THE COURT: Okay. Do you socialize with him?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Often or occasionally?

19 PROSPECTIVE JUROR: Yeah, occasionally. I'm friends
20 with his brother, younger brother.

21 THE COURT: All right. Let me ask you this. Is
22 there -- would you feel an obligation to pay closer attention
23 to his side of the case than the other side, or do you think
24 you could be completely neutral?

25 PROSPECTIVE JUROR: I think it's just a little

1 uncomfortable, to be honest.

2 THE COURT: All right. I'll excuse you. Thank you.

3 Call one more, please.

4 THE CLERK: Laura Guijosa.

5 THE COURT: I'm going to -- is it Guijosa?

6 PROSPECTIVE JUROR: Guijosa.

7 THE COURT: How do you --

8 PROSPECTIVE JUROR: In Spanish, Guijosa.

9 THE COURT: Guijosa. And where do you live?

10 PROSPECTIVE JUROR: In Summit.

11 THE COURT: How old are you?

12 PROSPECTIVE JUROR: 51.

13 THE COURT: What is your educational background?

14 PROSPECTIVE JUROR: My associate's in early childhood
15 education.

16 THE COURT: And what is your business or occupation?

17 PROSPECTIVE JUROR: No, I don't work. I'm sorry.

18 THE COURT: You're not working currently, is that --

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Are you able to devote three to four
21 weeks to this case?

22 PROSPECTIVE JUROR: No, I don't think so, no.

23 THE COURT: Why?

24 PROSPECTIVE JUROR: Why? Because I don't speak good
25 English, I don't think so, 100 percent.

1 THE COURT: All right. I'll excuse you. Thank you.

2 Call one more.

3 THE CLERK: Dong Han, H-a-n.

4 THE COURT: You are Dong Han; is that correct?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Where do you live?

7 PROSPECTIVE JUROR: A northwest suburb.

8 THE COURT: And how old are you?

9 PROSPECTIVE JUROR: 36.

10 THE COURT: What is your educational background?

11 PROSPECTIVE JUROR: Bachelor's.

12 THE COURT: And business or occupation?

13 PROSPECTIVE JUROR: I'm currently a general manager
14 at a retail.

15 THE COURT: What type of retail is it?

16 PROSPECTIVE JUROR: Clothing.

17 THE COURT: Okay. Is that here in -- where is that
18 located?

19 PROSPECTIVE JUROR: Northbrook Court.

20 THE COURT: Okay. Are you able to devote three weeks
21 or so to this trial?

22 PROSPECTIVE JUROR: No.

23 THE COURT: And why is that?

24 PROSPECTIVE JUROR: We're currently short staffed,
25 and it will be restraining on everybody.

1 THE COURT: All right. I'll excuse you. Thank you.

2 Call one more, please.

3 THE CLERK: Gary Raphael.

4 THE COURT: You are Gary Raphael; is that correct?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Where do you live, sir?

7 PROSPECTIVE JUROR: Glencoe.

8 THE COURT: And how old are you?

9 PROSPECTIVE JUROR: 62 for four more days.

10 THE COURT: Almost happy birthday.

11 PROSPECTIVE JUROR: Thank you.

12 THE COURT: What is your educational background, sir?

13 PROSPECTIVE JUROR: MBA.

14 THE COURT: And what is your business or occupation?

15 PROSPECTIVE JUROR: I'm president of ADM

16 International. We're a general contractor with the federal
17 government for interior furnishings.

18 THE COURT: All right. Are you able to devote three
19 weeks or so to this trial?

20 PROSPECTIVE JUROR: It would be difficult. I'm -- my
21 dad lives in Florida. My wife and I were scheduled to go down
22 there on the 16th to help with some damage that was done to
23 the house.

24 THE COURT: I'll excuse you.

25 Call one more, please.

1 PROSPECTIVE JUROR: Thank you.

2 THE CLERK: Jan Dobon-Slabowski.

3 JUROR RAPHAEL: May I ask this gentleman one
4 question, though, please, before I go?

5 THE COURT: You are Jan Dobon-Slabowski. Is it Jan?

6 PROSPECTIVE JUROR: Jan, Jan. Everything works.

7 THE COURT: Where do you live, sir?

8 PROSPECTIVE JUROR: Close to Schaumburg.

9 THE COURT: And what -- how old are you, sir?

10 PROSPECTIVE JUROR: 68.

11 THE COURT: What is your educational background?

12 PROSPECTIVE JUROR: Master's degree in mechanical
13 engineering.

14 THE COURT: And what is your business or occupation?

15 PROSPECTIVE JUROR: I am retired right now.

16 THE COURT: From what are you retired?

17 PROSPECTIVE JUROR: Engineering.

18 THE COURT: Engineering is a broad --

19 PROSPECTIVE JUROR: Mechanical engineering.

20 THE COURT: Okay. Are you able to devote three to
21 four weeks to this case?

22 PROSPECTIVE JUROR: That would be difficult.

23 THE COURT: Pardon?

24 PROSPECTIVE JUROR: I was hospitalized -- I was
25 hospitalized in Loyola Hospital for a major infection. I got

1 E. coli bacteria.

2 THE COURT: All right. I'll excuse you.

3 PROSPECTIVE JUROR: I was advised to rest.

4 THE COURT: I'll excuse you.

5 Call one more.

6 THE CLERK: David Sexton.

7 THE COURT: You are David Sexton; is that right?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Where do you live, sir?

10 PROSPECTIVE JUROR: LaSalle.

11 THE COURT: And what is your business or occupation?

12 PROSPECTIVE JUROR: I'm a route driver.

13 THE COURT: And how old are you?

14 PROSPECTIVE JUROR: 52.

15 THE COURT: What's your educational background?

16 PROSPECTIVE JUROR: High school.

17 THE COURT: Are you able to devote three to four
18 weeks, sir?

19 PROSPECTIVE JUROR: No, sir.

20 THE COURT: Okay. And that is why, sir?

21 PROSPECTIVE JUROR: I live with my mother. She's 86.
22 She recently had a stroke.

23 THE COURT: All right. I'll excuse you. Thank you.

24 Call one more.

25 THE CLERK: Sam Williams.

1 THE COURT: You are Sam Williams; is that correct,
2 sir?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Where do you live?

5 PROSPECTIVE JUROR: South side.

6 THE COURT: And how old are you?

7 PROSPECTIVE JUROR: 57.

8 THE COURT: What is your educational background?

9 PROSPECTIVE JUROR: Junior college.

10 THE COURT: And what is your business or occupation?

11 PROSPECTIVE JUROR: I am a Christian missionary for
12 Campus Crusade of Christ.

13 THE COURT: And is that a --

14 PROSPECTIVE JUROR: It's a missionary.

15 THE COURT: -- position where you travel a lot?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Are you able to sit for three to four
18 weeks here?

19 PROSPECTIVE JUROR: I -- it would be very difficult.

20 THE COURT: Why is that, sir?

21 PROSPECTIVE JUROR: At this time of year, we are
22 raising support and going out to the cities and countries that
23 have had the disasters.

24 THE COURT: All right. I'll excuse you.

25 Call one more, please.

1 THE CLERK: James Shennan.

2 THE COURT: You are James Shennan?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Where do you live, sir?

5 PROSPECTIVE JUROR: DuPage County.

6 THE COURT: And how old are you?

7 PROSPECTIVE JUROR: 21.

8 THE COURT: What is your educational background?

9 PROSPECTIVE JUROR: Some college.

10 THE COURT: And what is your business or occupation?

11 PROSPECTIVE JUROR: I am currently unemployed, but I
12 go to school full-time.

13 THE COURT: Are you able to sit for three to four
14 weeks then?

15 PROSPECTIVE JUROR: No, sir.

16 THE COURT: That's because you're currently
17 schooling?

18 PROSPECTIVE JUROR: Uh-huh.

19 THE COURT: Okay. I'll excuse you. Thank you.

20 THE CLERK: Michael Schomer.

21 THE COURT: You are Michael, is it, Schomer?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Where do you live?

24 PROSPECTIVE JUROR: Plainfield.

25 THE COURT: And how old are you, sir?

1 PROSPECTIVE JUROR: 61.

2 THE COURT: What is your educational background?

3 PROSPECTIVE JUROR: Junior college.

4 THE COURT: And what is your business or occupation?

5 PROSPECTIVE JUROR: Retired firefighter.

6 THE COURT: Are you able to sit for three weeks or
7 so?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Okay. Do you know anything about this
10 case?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Did you recognize anyone who was
13 introduced to you?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Have you or any family member ever worked
16 in a police capacity?

17 PROSPECTIVE JUROR: I had three cousins who were
18 Chicago police.

19 THE COURT: Okay. Are they close to you?

20 PROSPECTIVE JUROR: Distant.

21 THE COURT: Distant?

22 PROSPECTIVE JUROR: They live north side, I live
23 south side.

24 THE COURT: Do you socialize with them?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Okay. Are they regular police officers,
2 is what they are?

3 PROSPECTIVE JUROR: They were Chicago PD, yes.

4 THE COURT: Have you or your family ever worked for
5 the City of Chicago?

6 PROSPECTIVE JUROR: I have numerous family members
7 who are current or retired Chicago firefighters.

8 THE COURT: Firefighters. Okay. Have you or any
9 family member ever had a negative experience with a Chicago
10 police officer?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Your view of the City of Chicago Police
13 Department, would you call it negative, positive, or neutral?

14 PROSPECTIVE JUROR: Neutral.

15 THE COURT: Okay. Have you or any family member ever
16 been a crime victim?

17 PROSPECTIVE JUROR: Yes, sir, twice. The first time
18 was a family garage burglarized in 1970, and in 1984, my
19 apartment was burglarized when I lived in San Antonio.

20 THE COURT: Did they catch the person in any of the
21 occasions?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Have you or any family member ever been
24 arrested for a serious crime?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Do you know anyone who has committed or
2 attempted suicide?

3 PROSPECTIVE JUROR: My uncle killed himself in 1982
4 with a shotgun, a bullet to the head.

5 THE COURT: Do you have any specialized knowledge of
6 suicide as a result of that experience?

7 PROSPECTIVE JUROR: No, sir, other than in my
8 capacity as a firefighter, I've seen numerous suicides.

9 THE COURT: All right. But you don't have any
10 particular knowledge of why a person --

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: -- would do something like that? Okay.

13 Do you know anyone who has suffered a serious
14 traumatic brain injury?

15 PROSPECTIVE JUROR: Not personally, no.

16 THE COURT: And that would be through your work?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: People who get hurt in a fire?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Have you served on a jury before?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Have you ever filed a lawsuit or have you
23 ever been sued?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: If plaintiff establishes liability and

1 serious damages, would you be willing to award substantial
2 damages?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: If, on the other hand, plaintiff fails to
5 establish liability, would you be willing to find in favor of
6 the City of Chicago and award no damages?

7 PROSPECTIVE JUROR: That's correct, yes.

8 THE COURT: Any reason you couldn't be fair?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: And just one other question. The fact
11 that you have relatives who are Chicago policemen, would you
12 think that would influence you in any way, shape, or form as
13 to how you would decide this case?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Can I see the lawyers at sidebar, please?

16 (Proceedings heard at sidebar:)

17 THE COURT: By the way, your motion on the one juror
18 to -- for cause is denied.

19 MR. ROMANUCCI: Denied. That's fine.

20 THE COURT: Yes. They're out, also.

21 Any further questions?

22 MR. ROMANUCCI: I think with Mr. Schomer or Schomer,
23 I would seek to excuse him for cause. I don't know if this is
24 appropriate now.

25 THE COURT: Yes, it would be now.

1 MR. ROMANUCCI: I would seek to excuse him for cause
2 because it looks like he has personal knowledge on both sides
3 of the aisle with respect to people who know suicide, and he
4 knows -- he's experienced so many suicides in his employment,
5 plus he knows many people, not only on the Chicago Police
6 Department but also fire department. Numerous witnesses will
7 be testifying for both CPD and CFD.

8 THE COURT: Okay. I would deny your motion for
9 cause. The City --

10 MR. ROMANUCCI: The only follow-up question I would
11 have for him, your Honor --

12 THE COURT: Yes.

13 MR. ROMANUCCI: Does he know a witness by the name of
14 Victoria Janozik. She's with Chicago fire.

15 THE COURT: Write that down for me there, would you?
16 Janozik is the name. Any questions you wish?

17 MS. ROSEN: No, Judge.

18 THE COURT: Okay.

19 (Proceedings heard in open court:)

20 THE COURT: Just one follow-up question, Mr. Schomer.
21 Do you know a firefighter named Victoria Janozik?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Okay. Thank you. Do you want to write
24 out your requests, and I will...

25 (Pause.)

1 THE COURT: Okay. Would you swear in
2 Ms. Carter-Marriner and Mr. Schomer, please?

3 (Jurors sworn.)

4 THE COURT: Okay. We've now completed jury
5 selection. I want to thank the people in the back for your
6 patience.

7 And for the 10 of you, you are the jury, and your
8 home away from home will be the jury room in the back. You'll
9 be shown in a moment where that is. And when you're in here,
10 that will be locked, so you can keep your valuables back
11 there.

12 A couple of things I want to impress upon you. The
13 most important thing is to keep an open mind and don't allow
14 anybody to talk to you about the case and don't talk to
15 anybody about the case. When I say "don't talk to anybody
16 about the case," I want to emphasize that you should not get
17 on any of the social network things like Twitter and that sort
18 of thing and broadcast your experiences.

19 You can do that after the case is over, but I'm going
20 to ask you, until that time, to devote your full attention to
21 the evidence here that you're going to hear in this case and
22 don't discuss it with anybody, including yourselves among the
23 jury until after you've heard all of the evidence.

24 It's very important that you keep an open mind until
25 you hear all of the evidence because first, you will hear the

1 plaintiff's witnesses. Then after that, you will hear the
2 defense witnesses. So you should keep an open mind throughout
3 the entire case until you've heard every witness, but it's
4 also very important -- and do not do any personal research.
5 Don't Google any name you may hear to see if you can find out
6 what the news -- or what somebody may have said on the
7 internet because what you read on the internet is what we call
8 hearsay, and it may or may not be true because it's not under
9 oath and it's not under -- subject to cross-examination.

10 The only evidence you should consider is evidence
11 that's testified to under oath in a court and is subject to
12 cross-examination. Anything that you hear or is said outside
13 of court, you read in a newspaper or you read on the internet
14 and so forth is rumor at best, and it's something that if you
15 look up that kind of thing, you might get a little mixed up,
16 "Did I hear it in court, or did I read it on the internet?"

17 So I'm going to ask you, stay off your computers as
18 far as doing any research or any discussion with anybody as to
19 your experiences in this case. Again, when the case is over,
20 you'll have plenty of time to do whatever -- talk to anybody
21 you want and give your experiences and so on and so forth. So
22 I'm going to ask that you not do so until then.

23 We're going to now break for lunch, and then you will
24 come back at, say -- it's now 5 after -- or 10 after 1:00, so
25 we'll come back at 10 after 2:00 and at that time, you'll hear

1 the opening statements of the lawyers who will tell you in
2 great detail of what this case is about.

3 So again, would you show them the jury room?

4 And we'll see you at 10 after 2:00.

5 (Proceedings heard in open court. Jury out.)

6 THE COURT: Just for the record, Mr. Romanucci, your
7 motion to reconsider the Court's denial of your motion to
8 excuse for cause Mr. Schomer is denied.

9 MR. ROMANUCCI: Thank you, your Honor.

10 THE COURT: All right. At 10 after 2:00, we will
11 have opening statements. Anybody want to put anything on the
12 record at this point?

13 MS. ROSEN: Yes, Judge. I just want to say that I
14 received an email that I believe Mr. Romanucci was copied on
15 from Mr. Monaco who was one of the attorneys that was here
16 this morning on the Doe case. He has been sending us
17 discovery that was answered in the Doe case where
18 Mr. Romanucci's firm is on the service list because they moved
19 to intervene.

20 So I haven't had a chance, obviously, to review it
21 all, but there are discovery responses by Mr. Doe who we all
22 believe is Mr. Kelly that answer questions about this
23 incident. And in light of the fact that there's this issue
24 about whether or not he's going to take the Fifth or not, the
25 City has no knowledge, and these documents have never been

1 produced. And this morning, Mr. Romanucci said the only thing
2 that he received out of that case was the complaint.

3 So I just want to raise that now. We're going to
4 take a look at it now over the break, but I have serious
5 concerns about the fact that they have discovery from
6 Mr. Kelly related to information he is providing in that
7 litigation about the circumstances of the events that
8 transpired on January 12th, 2010, and the City was not
9 provided it, and Mr. Romanucci this morning said he had
10 nothing about the complaint.

11 MR. ROMANUCCI: I believe that Ms. Rosen is
12 misinterpreting my words, your Honor. As I said, the only
13 document that I will be using is the complaint. That's what I
14 said.

15 THE COURT: I thought you said the only document that
16 was relevant to this case --

17 MR. ROMANUCCI: Was the complaint. That's what I
18 said.

19 THE COURT: Well, is there other stuff that's
20 relevant to the case, I guess is -- that you received?

21 MR. ROMANUCCI: I don't know that I have received
22 anything. Debra, where is -- Debra, do we have other
23 discovery?

24 MS. THOMAS: Yes.

25 THE COURT: Well, why don't you --

1 MR. ROMANUCCI: I'm not -- I don't intend to use it.

2 MS. ROSEN: Judge, that's really not the standard.

3 If he doesn't -- maybe I want to use it.

4 THE COURT: Yes. I mean, that's -- why don't you go
5 over that over the next hour so you can tell me if there's --
6 if there is something or there is nothing.

7 MR. ROMANUCCI: That's fine.

8 THE COURT: All right.

9 MR. ROMANUCCI: And then, your Honor, I'm going to
10 tender to Ms. Rosen based on the motions in limine this
11 morning, with regard to our opening, we have a PowerPoint to
12 do with it, so I'm going to tender it to Ms. Rosen to see if
13 she has any objection to it.

14 THE COURT: All right. Very good. Thank you.

15 (Recess from 1:11 p.m. to 2:10 p.m.)

16 * * * * * * * *

C E R T I F I C A T E

18 I, Judith A. Walsh, do hereby certify that the
19 foregoing is a complete, true, and accurate transcript of the
20 proceedings had in the above-entitled case before the
21 Honorable HARRY D. LEINENWEBER, one of the judges of said
22 Court, at Chicago, Illinois, on October 2, 2017.

23 */s/ Judith A. Walsh, CSR, RDR, F/CRR*
24 Official Court Reporter
25 United States District Court
 Northern District of Illinois
 Eastern Division

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL A. LAPORTA,) Docket No. 14 C 09665
as Guardian of the estate and)
person of Michael D. LaPorta, a)
disabled person,)
Plaintiff,) Chicago, Illinois
v.) October 2, 2017
CITY OF CHICAGO, a municipal)
corporation, GORDON LOUNGE,)
INC., d/b/a BREWBAKERS,)
Defendants.)

VOLUME 1-B
TRANSCRIPT OF PROCEEDINGS - Trial
BEFORE THE HONORABLE HARRY D. LEINENWEBER, and a Jury

APPEARANCES:

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1 (In open court outside the presence of the jury.)

2 THE CLERK: Court is back in session. Please be
3 seated.

4 MS. ROSEN: Can we talk about something before we
5 start?

6 THE COURT: Yeah. Did you get your situation squared
7 away?

8 MR. ROMANUCCI: I think so, your Honor. As it turns
9 out, counsel had the same discovery that we did because
10 Mr. Monaco provided it, from what I found out, to both of us
11 so...

12 THE COURT: So there's nothing --

13 MS. ROSEN: I'm sorry, Judge, that's absolutely
14 incorrect. He provided it to me this morning while we were
15 sitting here. I didn't get it. They've had this discovery
16 since June.

17 It was never disclosed. There are -- there are
18 discovery responses from Mr. Doe. And quite frankly, I don't
19 even know how much of this I can talk about because I don't
20 know what the scope of the protective order is in the state
21 court case.

22 I was not a part of the -- and was not given notice to
23 the motion to intervene. There's e-mail exchanges between
24 Mr. Gould at Mr. Romanucci's office and the parties in the
25 other case wherein it appears based on the e-mail that the

1 state court judge, Judge, O'Hara ruled that the plaintiff in
2 this case could use -- the plaintiff in our case here could use
3 the discovery that he was obtaining in our case as long as they
4 struck the caption of the complaint and kept the
5 confidentiality.

6 I was not there for any of that, but there's certainly
7 in the discovery responses that I've been able to read,
8 which -- off of my phone and what we've been able to print in
9 the hour that we've known about this, there is relevant
10 discovery as it relates to the issues in this case.

11 And we are severely prejudiced by the fact that this
12 discovery was not produced to us. The fact that plaintiff has
13 made the representation that they didn't intend to use it is
14 completely irrelevant. This morning I specifically asked the
15 Court to ask Mr. Romanucci if what he was saying was that the
16 only document he received from that state court case was the
17 complaint, and he affirmatively said to the Court that the only
18 document he received was the complaint.

19 THE COURT: No, that isn't what he said. What he said
20 was the only -- I understood the only relevant document was the
21 complaint, and that was the only one he was going to use. Now,
22 if there's stuff that's relevant, I don't know.

23 MR. ROMANUCCI: The other thing is, your Honor, if you
24 recall, we filed a motion to use the Jason Doe complaint in
25 this case. And you denied that motion saying that you would

1 revisit that matter at trial whether or not even the Jason Doe
2 complaint would be relevant to this case.

3 THE COURT: Well, whatever, it's kind of late to be
4 arguing discovery matters. So we're going to proceed with the
5 opening statements. The jurors are all back.

6 MS. ROSEN: Judge, I have one other issue. I was
7 handed just at the break this, which is representative of a
8 PowerPoint presentation that apparently is intended to be used
9 in the opening.

10 I have objections to numerous slides in this
11 PowerPoint presentation. There's evidence that's not been
12 admitted that we object to. There's argument all over the
13 place. There's dep transcripts. There's phone records that
14 we've objected to.

15 So I mean, there are certain slides that we don't
16 object to, but this -- there's -- the majority, half, a third,
17 I don't know, is objectionable.

18 MR. ROMANUCCI: Your Honor, we amended this -- the
19 PowerPoint presentation to conform with your motions in limine.
20 Right after the motions, we conformed it so that there's no
21 inadmissible evidence.

22 THE COURT: Whatever. The opening statements are not
23 evidence. I will tell the jury that, and I will tell them not
24 evidence, and if any matter in the opening statements is not in
25 evidence, then they must disregard it. I'll have to do that,

1 but that's normal. Most of the time, I mean, people, you know,
2 they comment on evidence about what they're going to have.
3 They're not supposed to argue.

4 MS. ROSEN: But, Judge, there's dep transcripts from
5 the case.

6 THE COURT: What?

7 MS. ROSEN: Deposition transcripts of witnesses.

8 THE COURT: There's nothing wrong with that if they're
9 admissible. I mean, if it's evidence that's going to be in...

10 MS. ROSEN: But, Judge, it's not. These are live
11 witnesses that are going to testify. There's -- you can't --
12 there's deposition testimony that we don't know what these
13 witnesses are going to say. There's charts about records.

14 THE COURT: You should know what a witness is going to
15 say if they've had their deposition taken. If he's just -- if
16 he's indicating what the witnesses are going to say based on a
17 deposition, then he can do that as far as I can see.

18 I don't see anything wrong with that unless -- well,
19 obviously if the witness isn't a proper witness, that wouldn't
20 be appropriate, but I can't -- so you have to let him go at it,
21 and you can raise an objection if he's putting something in
22 that you don't think's going to be in evidence.

23 But that's -- again, I will tell them now and I will
24 tell them at the end of the case that what the lawyers say is
25 not evidence. If they suggest something and it's not going to

1 go into evidence, then they will -- you can show to the jury
2 that he didn't tell you the correct information.

3 MS. ROSEN: But, Judge, this is slide after slide
4 after slide of things that we've objected to in the pretrial
5 order.

6 THE COURT: Well, I mean, are they in conformance with
7 the motion in limine. If they're not, then he --Mr. --

8 MS. ROSEN: It's not just the motions in limine,
9 Judge. On the pretrial order, we have objections to phone
10 records. There are like -- there's brain scans of Mr. LaPorta.
11 I mean, this goes on and on and on. This is not for opening.
12 None of this has been admitted.

13 THE COURT: It doesn't have to be admitted because you
14 haven't admitted anything yet. I mean, the whole opening
15 statement is based upon information that's not admitted. So
16 I'm going to let him go ahead, and if there's inappropriate
17 stuff in there, then I'll either strike it or tell the jury
18 specifically disregard it or not, as the case may be. So let's
19 get going. I promised the jury we would move along rapidly, so
20 do you want to bring the jury in.

21 How long will your opening take, Mr. Romanucci?

22 MR. ROMANUCCI: 90 minutes, your Honor.

23 THE COURT: All right. We'll go then, and then we'll
24 have a recess after his opening.

25 (Jury enters courtroom at 2:18 p.m.)

1 THE COURT: You can sit wherever you want. You have
2 don't have to sit where you were selected, just where
3 comfortable. Please, everybody be seated.

4 Members of the jury, you're about to hear the opening
5 statements. This is the opportunity that the lawyers have to
6 tell you in advance what they think the evidence will show or
7 prove during the course of the trial.

8 They're designed to be helpful to you because it will
9 give you an overview because the evidence doesn't always come
10 in in a perfectly logical or chronological order. So it's
11 helpful to have an overview which the lawyers can prescribe to
12 you so that you can understand the relevance of specific bits
13 of evidence as they come in.

14 Now, one word of caution is the attorneys are not
15 witnesses in the case. They're not under oath, and they're not
16 subject to cross-examination. So what they say at the opening
17 statement and at the closing arguments and at other times
18 during the course of the trial is not evidence.

19 So if an attorney makes an assertion of fact that they
20 expect the evidence to show and at the conclusion of the case,
21 it's your agreement or understanding that that particular fact
22 or facts were not proved or not brought into the evidence of
23 the case, then you ignore what the attorneys have to say.
24 Because they cannot supply evidence because they're not
25 witnesses. But they can obviously tell you what they believe

Opening Statement - Plaintiff

1 the evidence will be, which is their appropriate role at the
2 opening statement.

3 Now, the plaintiff has the burden of proof during the
4 course of the trial, so the plaintiff goes first. And then
5 after the plaintiff, then you'll hear the defendant and the
6 opening statements. And that's the same with the evidence of
7 the case and same with the closing arguments.

8 So the plaintiff may give the opening statement.

9 Mr. Romanucci, are you giving it?

10 MR. ROMANUCCI: Your Honor, yes.

11 THE COURT: All right. You may proceed.

12 MR. ROMANUCCI: And I am ready, your Honor. Thank
13 you.

14 OPENING STATEMENT ON BEHALF OF PLAINTIFF

15 MR. ROMANUCCI: Your Honor, thank you. Ladies and
16 gentlemen, good afternoon. On behalf of myself and our entire
17 legal team -- I introduced you to them earlier -- I also want
18 to introduce you to a couple of new people. They're at the
19 table that you did not get a chance to meet this morning.

20 One of them is Patti LaPorta. This is Michael
21 LaPorta's mom.

22 MRS. LAPORTA: Hi, how are you?

23 MR. ROMANUCCI: Mikey or Michael LaPorta -- Michael D.
24 LaPorta is sitting in the courtroom in the first row there. I
25 thank you in advance for your attention and for the attention

Opening Statement - Plaintiff

1 that you'll be giving all of the evidence that you will hear,
2 and you will hear from many witnesses throughout the course of
3 this case also.

4 I also want to thank the attorneys for the City for
5 being here. And you're going to hear many of the witnesses who
6 will be called in this case testifying against the City of
7 Chicago for violating constitutional laws by allowing a pattern
8 of violent behavior from a Chicago police officer to go
9 unchecked for years.

10 And during that period of time that this violent
11 behavior went unchecked, this officer was never, ever
12 disciplined. And what that did by never meting out any
13 discipline, it caused very serious, permanent harm to Mikey
14 LaPorta, who is sitting in this courtroom today.

15 It caused him lifelong brain damage, paralysis and
16 lifelong care from his parents and his family. The evidence
17 will show that the City knew about this violent behavior. They
18 knew about this pattern of behavior that went unchecked for
19 years. And they allowed this loose cannon, ticking time bomb
20 police officer to remain on the force, and they never did
21 anything about it.

22 Now, ladies and gentlemen, make no mistake. There are
23 many, many good police officers out there, and we all have
24 respect for the good ones. But it's the bad ones, the ones
25 that must be captured, the ones that must be caught and stopped

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Opening Statement - Plaintiff

1 before they cause that type of permanent harm. That's what
2 this case is about.

3 This case is about a badge, a badge given to Patrick
4 Kelly by the City of Chicago and all the powers and privileges
5 that come with that badge. This case is about the City of
6 Chicago giving all of its officers the power and the legal
7 authority to possess and own a service weapon, a service
8 weapon, which is required by the Chicago Police Department.

9 You can't be a Chicago Police Department officer until
10 you buy one of their guns that they say that you must have. A
11 service weapon, that same service weapon that was purchased
12 that was used to shoot Michael LaPorta.

13 This case is about the City of Chicago giving its
14 officers the power and legal authority to load that gun with
15 the type of ammunition that the City prescribes that it use.
16 This case is about one of those peace officers, a sworn public
17 servant, who knew he had the power to act without fear of
18 punishment or discipline or reprimand because he had the
19 brotherhood of the Chicago Police Department behind him.

20 And it was this brotherhood that existed within the
21 City of Chicago Police Department where they protect their own.
22 And by protecting their own, they hide. And the evidence will
23 show that by hiding, it causes harm.

24 The Department rules say that unless you are on duty,
25 your service weapon must be on your person, secured in a

Opening Statement - Plaintiff

1 holster, locked in a safe if you're at home with it or have a
2 mechanism called a trigger lock on it. It's not acceptable if
3 you're at home to leave your gun unsecured.

4 The rules also state that officers must never be
5 intoxicated while off duty with his or her service weapon
6 unsecured, even if it's in their own house. It may sound
7 strange, but that's the rule. City of Chicago rule says police
8 officers on or off duty must never be intoxicated. The rules
9 are that an officer may be called to save a life at any time,
10 and if that's necessary, they can't be intoxicated.

11 You will hear substantial evidence that these rules
12 are often ignored and violated as a result of the City of
13 Chicago failing to discipline officers when the circumstances
14 warranted because the City of Chicago maintains a code of
15 silence. Now, the code of silence prevents officers from being
16 investigated. When they are investigated, it prevents them
17 from getting disciplined because they can't ever get
18 disciplined if somebody stops it. If there's a hindrance
19 before the discipline process, it can never happen.

20 The City of Chicago has allowed it to continue
21 unchecked, not just for during the time that Patrick Kelly shot
22 Michael LaPorta, but you'll hear evidence that this code of
23 silence has been existing in the City of Chicago not even for
24 years, ladies and gentlemen, but decades. It's become a
25 culture in the City of Chicago.

Opening Statement - Plaintiff

1 The City fails to have a sufficient early intervention
2 or warning system. So you will hear lots of evidence that one
3 of its police officers -- and his name is Patrick Kelly --
4 repeatedly acted with impunity because he learned that
5 misconduct, regardless of how severe or even criminal, it goes
6 unpunished.

7 And that's a picture of Patrick Kelly. He was rarely
8 investigated, never disciplined and always protected. He had
9 someone pulling strings for him the entire time he was on the
10 Chicago Police Department. But I'm going to tell you, ladies
11 and gentlemen, that many times I'm not going to be able to
12 offer you an explanation as to why things happened, but they
13 did to him very inexplicably.

14 So today the evidence will show that the City, had it
15 acted appropriately and properly, Officer Kelly never would
16 have had the service weapon to shoot Michael LaPorta. So this
17 case is a story about the service weapon that was used to shoot
18 Michael LaPorta and the City ordered Kelly to purchase before
19 he could become a sworn peace officer.

20 This is a picture of the actual gun. This is the only
21 picture that the Chicago Police Department took of that gun on
22 the night of the shooting. That's it. We don't have any other
23 pictures of the gun.

24 You will learn that -- excuse me. You will learn that
25 Officer Kelly's gun was eventually returned to him by the

Opening Statement - Plaintiff

1 Chicago Police Department before the finale, before the end not
2 only of this case, but also the criminal case. They gave it
3 back to him.

4 Now, because this is the only picture we have of the
5 gun, we've brought to you a replica of the gun. This is what
6 it looks like. This is a replica of the gun that Patrick Kelly
7 used that night. The City of Chicago, they may choose to bring
8 in a real weapon. We chose to bring this one.

9 And we'll explain to you, we'll have an expert talk to
10 you about how this gun works, what type of gun it is. It's
11 called a P226 Sig Sauer. It's either a DAO or a DAK model, and
12 it will be explained to you how this gun works and some of the
13 safety mechanisms that may or may not exist on it.

14 This case is a story about Officer Kelly and how once
15 he got his service weapon and his badge in 2005 from the City
16 of Chicago, he breached his power, breached his authority and
17 wreaked violence on the citizens of Chicago over and over
18 again. And this is whether he was on duty or off duty.

19 And he especially committed acts of violence on people
20 who were even friends with him or even his domestic partners.
21 This unchecked behavior resulted in at least 18 complaint
22 registers being filed against Patrick Kelly before the shooting
23 of Michael LaPorta. So that means that 18 different people
24 took the time to register complaints against him and file
25 complaints against him in five years as a police officer. Five

Opening Statement - Plaintiff

1 full years.

2 So he was getting complaints against him at the rate
3 of five to six times per year, the 19th one being when the
4 bullet entered Michael LaPorta's head. And that's what's
5 caused now Michael LaPorta his lifelong pain, suffering and
6 disability, disfigurement and clearly a lifelong, lifelong
7 paralysis in a wheelchair.

8 So this case is about justice and how you, as jurors
9 sworn as officers of this court, can right a horrible wrong of
10 the policies that exist within the City of Chicago from
11 preventing these loose cannon, ticking time bomb police
12 officers from misconduct. The evidence will show that what
13 happened here was preventable because it was clearly
14 predictable and foreseeable.

15 It was not the first time Patrick Kelly had committed
16 off-duty intoxicated acts of violence on people before. This
17 is not a case of Patrick Kelly being on the clock or off the
18 clock. The City will tell you that they don't have
19 responsibility in this case because Patrick Kelly was off duty.

20 Ladies and gentlemen, don't be hooked by that argument
21 because that's not what this case is about. This is about the
22 City of Chicago and what they knew before January of 2010 which
23 allowed Patrick Kelly to stay on the department. That's what
24 this case is about. And I'll explain this to you more fully as
25 I talk to you today and at the end of this case when I get my

Opening Statement - Plaintiff

1 last chance to talk to you as I do today.

2 So it happened before and the City knew through their
3 various agencies. So let me explain to you some of the
4 agencies that Patrick Kelly became familiar with while he was a
5 City of Chicago police officer. The first one being the one
6 that he worked for, which is the Chicago Police Department.

7 And what you'll hear is that the Chicago Police
8 Department is budgeted by the City of Chicago. So if I say
9 "City of Chicago" and "Chicago Police Department," Patrick
10 Kelly is an employee really of the City of Chicago through its
11 police department.

12 The next one is the Bureau of Internal Affairs. The
13 BIA or Internal Affairs is the agency within the City of
14 Chicago that's actually under the umbrella of the CPD, and they
15 discipline police officers for certain infractions.

16 A couple of examples are BIA will cite you if you
17 don't show up in roll call, if you're not wearing the right
18 type of uniform. If you swear, that could be an infraction
19 that the Bureau of Internal Affairs will look at.

20 The next one is the Office of Professional Standards,
21 which interestingly no longer exists. But it did exist for
22 part of Patrick Kelly's time as a police officer, which is
23 relevant to this case. So the Office of Professional Standards
24 was dissolved in 2007. And you'll hear testimony that the
25 reason it was dissolved is because there was a lack of trust in

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Opening Statement - Plaintiff

1 that department and how they investigated officers who had
2 committed misconduct.

3 Because OPS was the organization that investigated
4 officers who had committed violent acts while on duty such as
5 domestic violence or whether they were involved in a
6 police-involved shooting while on duty. That would be the type
7 of investigation OPS would look at. But they're gone. They're
8 no longer there.

9 The last one is the Independent Police Review
10 Authority, also known as IPRA. Now, IPRA was formed after OPS
11 as its replacement. And IPRA also is an organization that
12 investigates police officers for infractions that involve
13 violence or harm, whether on duty or off duty.

14 And you'll hear evidence that IPRA is no longer in
15 existence either for the very same reasons that OPS was not,
16 because of the lack of trust in how IPRA was conducting
17 investigations of Chicago police officers.

18 So what would happen? So if BIA, OPS or IPRA did
19 initiate an investigation, it would result in a finding. And
20 there are various findings that could be made through the
21 beginning of one of these investigations.

22 One of them could be what's called sustained. That's
23 the one that says that we found enough evidence to say that
24 this officer committed the act that was complained of. The
25 next one would be not sustained, that the officer -- actually

Opening Statement - Plaintiff

1 can't say that the officer did not commit it because, by
2 definition, what you will hear is if it's not sustained,
3 there's just not enough evidence to say whether that officer
4 did it or not.

5 The next one would be unfounded, that the allegation
6 was found to be false or not factual. The next one would be
7 that there's no affidavit. This is important also because in
8 order for a complaint register to initiate, you would need
9 someone to make the complaint, and that would be after they
10 made the complaint, they would need to sign an affidavit.

11 And if they do sign the affidavit, the investigation
12 continues. And if there's no affidavit, then the investigation
13 stops because that person for some reason or another decides
14 not to proceed with their affidavit. And the last one being
15 exonerated. The incident occurred as alleged, but was lawful
16 and proper.

17 I told you that this story is not about whether
18 Kelly -- Officer Kelly was on duty or off duty in January of
19 2010 'cause that's not the case. Here's where the case begins,
20 in 2005 when Officer Kelly started his first full year of
21 employment as a Chicago police officer.

22 He finished the academy sometime you'll hear, I
23 believe it was July or maybe August of 2004. So in his first
24 full year of being a police officer in 2005 in January, there
25 was a complaint register. That's what the CR is, so I don't

Opening Statement - Plaintiff

1 repeat it so you know what it means.

2 There was a complaint register filed against him No. 1
3 for a violent arrest. It continues on in June, he was cited
4 again for an obscene gesture. Then it continued failing to
5 file a report. There was a violent arrest in August.

6 And then there is Fran Brogan. Fran Brogan is an
7 important name for you, ladies and gentlemen, because she was
8 Patrick Kelly's girlfriend at this time. And by definition, by
9 legal definition, because she was his girlfriend, she also
10 becomes his domestic partner. Even though they may or may not
11 live together, she's his domestic partner. And if you batter
12 your domestic partner, you then commit an act of domestic
13 violence.

14 And that's what happened here. Fran Brogan complained
15 against Patrick Kelly that he beat her, hit her, struck her
16 with an unknown object which caused her head to bleed. It
17 knocked her to the ground. It bloodied her head, and the next
18 one you'll see it significantly bloodied her blouse.

19 So you'll hear a lot of evidence about this particular
20 incident because Fran Brogan, as I told you, not only
21 complained against Patrick Kelly, she was hospitalized. And
22 Patrick Kelly, you will hear, was never arrested for this
23 incident.

24 He could not -- he was never even referred to the Cook
25 County State's Attorney because the Chicago police made a

Opening Statement - Plaintiff

1 decision to not arrest him, nor did they even assume their own
2 prosecution of the case on behalf of Fran Brogan. So it never
3 got to that point.

4 So one of the things I'll ask you to consider,
5 continue to consider throughout this case is what would have
6 happened to just a regular citizen, somebody who was in the
7 same situation, albeit horrible, would that citizen have been
8 given the same treatment as Patrick Kelly received here and as
9 he continued to receive throughout his career as a police
10 officer.

11 So the next year now is 2006. In April, there's a
12 violent arrest, continues with failing to arrest and then
13 there's Patrick Brogan. And the last name matches Frances
14 because this is brother and sister. Patrick Brogan was
15 involved, was inside Patrick Kelly's home. They got into an
16 argument, a dispute.

17 Patrick Kelly picked up a television remote control,
18 and he threw it at Patrick Brogan's head. And those are the
19 injuries that Patrick Brogan suffered. You can see. And in
20 this particular instance, Patrick Kelly was arrested. However,
21 it stopped there.

22 Patrick Brogan at some point decided to not continue
23 on with it, and he said, I'm not going to testify in a criminal
24 court, so the investigation stopped. There was a
25 characteristic between Patrick Brogan and Fran Brogan that I

Opening Statement - Plaintiff

1 want to mention to you. You'll hear evidence that both times
2 Patrick Kelly was intoxicated when he committed these acts of
3 battery against the Brogans.

4 The next incident is he threatened to plant evidence.
5 The next one is derogatory comments to an arrestee. Oh, and
6 there's an allegation of false arrest also in 2006. Before we
7 move on to the next year, I'd like to remind you that the
8 evidence will show that throughout these first two years and
9 these number of CRs, which we're at 11 right now, no
10 discipline, no punishment, no missing a day of pay, remaining a
11 Chicago police officer the entire time.

12 In 2007, there's an incident with Mr. Jesus Rios.
13 This was an on-duty incident with Mr. Rios. As opposed to the
14 two Brogans, which were off duty and inside his home, this is
15 an on-duty incident where Mr. Rios complained that during an
16 arrest, Patrick Kelly beat, hit him and kicked him about the
17 face and head causing these types of injuries.

18 Next in 2007, he was accused of planting evidence and
19 being verbally abusive, making allegations of false arrest,
20 threatened to mace and verbally abuse someone.

21 Now we're into 2008, a summary punishment action
22 request. That's the flag, the triangle, just to distinguish
23 between a complaint register and a SPAR. A SPAR is an
24 allegation that one officer makes upon another. So very
25 similar to BIA, these are lesser infractions which could

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Opening Statement - Plaintiff

1 involve not showing up at roll call, for example.

2 And the punishment for a SPAR can be as low as a
3 reprimand to as high as three-day suspension, but that's the
4 maximum. So Kelly was involved in a SPAR also, failure to
5 inventory property, violent arrest, another violent arrest and
6 then another SPAR.

7 And then in 2009, there was an IPRA log. And then in
8 2009, another SPAR, abusive and racist language towards an
9 arrestee, a log. A SPAR in December of 2009, and then this
10 event, the event that caused Michael LaPorta's injury, that
11 occurred in January of 2010.

12 Those five years, 2005, 6, 7, 8, 9, there are some
13 recurring characteristics in those CRs. And you'll hear
14 evidence during the trial, not here right now, because these
15 are just my words to you, as his honor said. But you'll hear
16 evidence that there are recurring characteristics amongst the
17 types of CRs he gets involved in.

18 And what are some of the those characteristics? Well,
19 this is not a Cubs versus Sox issue. This is not the
20 Eisenhower Expressway cutting the City of Chicago between North
21 Side and South Side. But unfortunately, this does have
22 something to do with the South Side of Chicago.

23 Patrick Kelly lives in the South Side of Chicago. He
24 works in the South Side of Chicago. He feels empowered and
25 emboldened by living and working and carrying a service weapon

Opening Statement - Plaintiff

1 and a badge on the South Side of Chicago. And he uses that
2 against people, and you'll hear evidence of that.

3 There's violence in him. We'll show you how many acts
4 of violence are contained within those CRs, and it's more just
5 in the three that we highlighted. Those are three that we just
6 showed you today right now.

7 The misuse of firearm with Jesus Rios. With Jesus
8 Rios, the other part of the allegation I didn't tell you about
9 was that he was accused -- Patrick Kelly was accused of putting
10 his gun against Jesus Rios' head and threatening to kill him.
11 He uses abusive and bigoted language throughout his career and
12 also in this case.

13 That's one of the characteristics that you'll hear
14 about. Intimidation. And one of his methods of intimidation
15 is by chest bumping people.

16 Personal relationships. Fran Brogan was a personal
17 relationship. Patrick Brogan was a personal relationship.
18 Mikey LaPorta was supposed to be his best friend.

19 Alcohol. There's going to be lots of evidence about
20 alcohol in this case. Patrick Kelly was intoxicated during
21 Fran Brogan, during Patrick Brogan. He's an admitted alcoholic
22 for years. The City of Chicago knew about that. And he was
23 intoxicated on January 12, 2010, on the night that Michael
24 LaPorta was shot.

25 Indeed, if the right thing had been done years before

Opening Statement - Plaintiff

1 Michael LaPorta was shot in the head, applying the law as
2 equally to all, whether police officer or citizens, Officer
3 Kelly would never have been able to own a gun or bullets.
4 You'll hear today that the City had programs in place to
5 identify officers such as Officer Kelly who showed patterns of
6 misconduct known as repeaters. But the evidence will show they
7 failed to utilize these programs.

8 The City somehow either ignored or they failed to
9 recognize these patterns in Patrick Kelly which caused this
10 shooting and which we are telling you -- and I'll explain to
11 you further -- it was unconstitutional what they did.

12 You will see that Officer Kelly is one of those bad
13 apples that the Chicago Police Department chose to keep on the
14 force giving him the continuing ability to abuse people more
15 vulnerable than he was without any sort of discipline or
16 punishment. He acted with impunity. That's basically the
17 definition of impunity. You can continue to act in the manner
18 you wish because there's no fear of any consequences at the
19 end.

20 You will hear evidence that multiple City employees in
21 policing had no clue that these early warning systems either
22 existed or were in place. So the City will tell you, they'll
23 argue, we're not liable, we're not wrong for everything that
24 plaintiff is complaining of because we had the systems in
25 place, and we'll go through them with you. That's what they're

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Opening Statement - Plaintiff

1 going to tell you.

2 But the fact is that these systems paid nothing more
3 than lip service. Because they were there, they were in
4 writing, but the people who were at the heads of the
5 department, they didn't know about them and never used them.

6 You're going to hear from multiple, multiple City
7 witnesses, city employees. Tisa Morris. So before OPS was
8 dissolved, she was the chief of the Office of Professional
9 Standards. And what did she say about an early warning type
10 system specifically called BIS, behavioral intervention? She
11 said, I don't know what it is. This is the chief who said that
12 she doesn't know what a behavior intervention system is.

13 Bruce Dean. He was a carryover employee, so he worked
14 both with OPS. Once they shut that down, they carried him over
15 to IPRA. What does he say? I did not believe an early warning
16 system existed, and I still don't believe that one exists.

17 Maria Olvera, she was one of the investigators for
18 both OPS and IPRA, another carryover employee. She said, I
19 never received training on identifying patterns of misconduct.

20 Dan Kobel. Dan Kobel is another carryover. And Dan
21 Kobel was the chief investigator -- or he was one of the
22 investigators in this particular shooting incident here
23 involving Michael LaPorta. And he had been familiar with
24 Patrick Kelly on other cases. What does he say? I'm not aware
25 of a mechanism or alert system that specified officers with a

Opening Statement - Plaintiff

1 history of CRs.

2 And then Ray Broderdorf, he's with Internal Affairs,
3 with the Bureau of Internal Affairs. You'll hear him say that
4 he was not aware of an early warning system in place.

5 Ladies and gentlemen, it was this attitude, the lack
6 of knowledge and awareness that led to the events of
7 January 12, 2010. So what happened on that day? Well, on the
8 night of January 11th, our client, Michael LaPorta and his
9 cousin Kyle and Officer Kelly and four of Officer Kelly's
10 off-duty police officer friends all went drinking out at bars
11 on South Western Avenue in Chicago.

12 Later on after the clock ticked past midnight when it
13 became January 12th, at about 4:30 in the morning, something
14 went really wrong, very, very, very wrong. Michael LaPorta was
15 inside Patrick Kelly's house at about 4:30 in the morning when
16 Patrick Kelly shot Mikey LaPorta.

17 Only two people were inside the house when this
18 happened. That was Patrick Kelly and Michael LaPorta. Mikey
19 was taken to the hospital in grave condition. Officer Patrick
20 Kelly remained on the scene. Officer Kelly was intoxicated.
21 His blood alcohol level was measured that night. Actually it
22 was measured later that day.

23 At the moment that Patrick Kelly shot Michael LaPorta,
24 his blood alcohol level was somewhere determined to be between
25 a .17 and a .24, which is two to three times the legal

Opening Statement - Plaintiff

1 intoxication level had he been driving a motor vehicle.

2 And you can see that the City of Chicago indeed did
3 take Patrick Kelly's blood alcohol at 12:19 p.m. on January 12,
4 2010, nearly eight hours after the event occurred. The
5 extrapolation from the Illinois State Police shows that his
6 blood alcohol level was between .17 and .24.

7 The evidence will show that not only was Patrick Kelly
8 intoxicated, but he left his gun unsecured, unholstered, laying
9 somewhere on a piece of furniture or possibly even in his own
10 waistband inside what's called a pancake holster.

11 Why is a pancake holster relevant? Because you hear
12 that pancake holsters are used underneath your clothing
13 typically while you're off duty so that you can't see that
14 you're actually having a gun or that you have a gun in your
15 waistband. It's a low profile, unsecured holster versus the
16 type of holster that officers wear when they're on the street
17 which are secure.

18 You just can't walk up to a holster -- or to a gun and
19 pull it out of a holster. It's going to get stuck because
20 there are secure mechanisms. They don't exist on a pancake
21 holster.

22 The evidence will show that having his gun unsecured
23 and being intoxicated were a clear violation of the rules that
24 I previously showed you. And these are the rules right in
25 front of you right there, ladies and gentlemen.

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Opening Statement - Plaintiff

1 So what happened while Patrick Kelly was intoxicated
2 at 4:30 that morning, and after that shooting happened was
3 just -- it was chaos. Officer Kelly at first very calmly --
4 and you're going to hear his 911 call very shortly. It was a
5 very calm, cool and collected call that he made to 911 from his
6 cell phone stating that Michael LaPorta had just shot himself
7 with Patrick Kelly's gun, that he had committed suicide.

8 And he told the 911 operator, "My friend is dead."
9 While he was on the phone with the 911 operator, Kelly found
10 out, he somehow discovered that Michael LaPorta was not dead
11 and he was breathing. And that's when the chaos broke out.
12 Michael LaPorta was alive.

13 He was breathing, and he only discovered this when he
14 was on the call with the operator. He would later in a sworn
15 statement that he gave to investigators in this case flatly
16 deny that he ever said Michael LaPorta was dead.

17 (Audio recording played in open court.)

18 MR. ROMANUCCI: Officer Kelly identified himself as a
19 police officer at least two times, possibly three times in that
20 initial phone call to the 911 operator. Officer Kelly did to
21 the 911 operator what his past shows he does, a past the City
22 knew about.

23 He became verbally and physically abusive towards
24 others as a way to intimidate, to get his way without any fear
25 of repercussion. So this started as a calm call because

Opening Statement - Plaintiff

1 Patrick Kelly did not immediately contact 911 after the gun
2 went off. You'll learn that he told investigators that after
3 the gun went off, he says, well, I went into shock, but he
4 doesn't know for how long and he can't tell us for how long.

5 You'll hear later on that he claims also that he had
6 time to assess the situation. He collected his thoughts. But
7 Patrick Kelly also lied about calling 911. He tells some
8 people that he called 911 immediately. He tells others that he
9 went into shock.

10 He also lied to them about Mikey being dead. His lies
11 and inconsistent stories started immediately because he had to
12 tell a story, a one-sided one albeit, and that was the story
13 that he had to tell to the detectives and the investigators so
14 he could cover his tracks. And they believed him. They
15 believed Patrick Kelly.

16 You'll hear the varying accounts that Patrick Kelly
17 gave regarding what happened. We're just going to show you a
18 few of them. I just want to go through a few of these accounts
19 right now. So he's identified a couple of places where this
20 gun would be. It was either inside his nightstand or on top of
21 the nightstand located in the bedroom.

22 Because what Patrick Kelly says is that Mikey LaPorta
23 walked into his bedroom, picked up a gun, put it up against the
24 side of his head and pulled the trigger. No warning. No
25 statement. No nothing at all.

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1 One of the things that Patrick Kelly says is that
2 Michael LaPorta followed or went into the bedroom to pet
3 Patrick Kelly's dog. The other story is that the dog followed
4 Michael LaPorta into the bedroom. And you'll hear later on why
5 all of these inconsistencies become very important.

6 Another one of the discrepancies is his history of
7 drinking. Why would he hide that he was drinking that night?
8 He told the investigators that interviewed him for this
9 particular event that he was not intoxicated, and he went so
10 far as to say that he has never been intoxicated in his life.

11 Indeed, one of his best friends, one of the individual
12 police officers who was out with him that night, Allyson
13 Bogdalek, she testified that Patrick Kelly entered rehab after
14 this shooting.

15 So these lies and inconsistencies run contrary to the
16 City of Chicago rules. As a sworn police officer, though,
17 Patrick Kelly was held to a higher standard than others. He
18 has a duty to respect others every single minute of the day
19 because that's what the City requires. So and those are some
20 of the rules that we want to show you. Because he is a police
21 officer 24 hours a day.

22 You'll hear witnesses testify that once you have a
23 badge, once you have that badge and you are given the legal
24 authority to carry a service weapon, there's no switch that you
25 can turn on and off and say, I'm gonna take two hours off and

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1 not be a Chicago police officer, because you're always sworn as
2 a Chicago police officer.

3 And Sergeant Ray Broderdorf, one of the individuals
4 who -- he's the individual who actually gave Patrick Kelly his
5 blood alcohol test eight hours after the event occurred, said
6 in a question, "Why would the application of conducting
7 investigations of administrative and/or criminal matters of
8 members of the Chicago Police Department apply to members who
9 are off duty?" His response, you will hear, is that, "Members
10 of the department are bound by the rules and regulations on or
11 off duty."

12 So the Chicago Police Department has a very lengthy
13 set of rules and regulations, and those rules apply 24 hours a
14 day. And that is another reason why sworn officers are never
15 to be intoxicated either on or off duty ever. But you'll learn
16 as early as 2005, the same year he became an officer, that was
17 the first time that Patrick Kelly admitted that he was an
18 alcoholic, and that happened after the Frances Brogan incident.

19 He has tried to deny that he ever was an alcoholic
20 when he was deposed in this case. When he gave sworn
21 testimony, he has tried to deny that he was intoxicated on the
22 night in question by saying that he believes he had no more
23 than two beers that entire night from about 11:00 p.m. until
24 the event occurred at about 4:30.

25 He has tried to deny that he has ever been intoxicated

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1 at all. When asked, "Have you ever been intoxicated from
2 drinking alcoholic beverages," his answer was no. And he was
3 asked, "Would it be correct that you are unaware of the
4 personal feeling of what it is like to be intoxicated?" And he
5 said that is true, that is correct.

Now, the four police officers that were out with him that night, the off-duty police officers, they all lied for him, too. Because they were all questioned in this case by the investigators of IPRA, and they all lied for Patrick Kelly saying he had no more than one to two beers at each bar they went to because they wound up going to two bars.

12 First one was McNally's, and then when that one closed
13 down at about 2:00 o'clock, they went to another bar called
14 Brewbakers. And then when that closed down, that's eventually
15 when they wound up at Patrick Kelly's house sometime around
16 between a quarter to 4:00 and 4:00 a.m. in the morning.

17 So all of his police officer friends gave consistent
18 testimony that they've never seen him drunk, they'd never seen
19 him drink to excess, and that night he only had one to two
20 beers at each location.

21 The City wants you to believe that on the night in
22 question, that Officer Kelly was so drunk, that he acted this
23 way because he was so upset over his friend. What we will show
24 you is that it was because he had no fear of punishment.

25 You heard on the 911 call how he swore, yelled and was

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1 abusive towards the operator. He hung up on her, but not
2 before screaming -- and excuse me -- "fuck, Mike." Why would
3 he say that? He called her back a second time, taking a moment
4 or two more to figure out now what to do now that Michael
5 LaPorta was alive.

6 He swore, yelled and was abusive towards the first
7 responder paramedics that arrived on the scene. When they came
8 to his home, at first he was trying to prevent them from coming
9 in. And then once they did come in, he was interfering with
10 the first responders, that he interfered with them when they
11 brought Mikey outside.

12 You'll hear testimony that he also became abusive, and
13 he yelled at the first responding police officers who arrived
14 on scene. And finally when the supervising sergeant -- she's
15 the white shirt. When she arrived on scene -- her name is
16 Charmane Kielbasa -- he called her very horrible words, which
17 are difficult to repeat, and you'll hear many more of them
18 during the course of this trial.

19 But he called her a skanky North Side bitch and whore.
20 And then he went after her. The testimony is that he started
21 flailing his arms at her, and then he tried to chest bump her.
22 And he got so abuse -- he got so abusive with her that the
23 other officers who were on the scene, the finally had to do
24 something.

25 They took him down. They took him down to the ground,

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1 and they arrested him. And they arrested him for assault on
2 his supervising sergeant. That still didn't stop him. Once
3 they put him in the back of the car, he started kicking the car
4 trying to blow out the window so he could get out.

5 So he was arrested for assault on his supervising
6 sergeant, never charged with resisting arrest. So the coverup
7 began that night to shield Patrick Kelly from the truth of that
8 night, that he's the one who shot Michael LaPorta.

9 How did the coverup start? Well you've already seen
10 some of his inconsistencies, which are lies. Then he made
11 phone calls and text messages. Right after 911, he made -- he
12 sent out four text messages. Actually he sent out many, many
13 text messages and many phone calls.

14 But the first ones were to the officers that he was
15 out with that night. Then he started making phone calls at a
16 very rapid rate. And you'll see how quickly those phone calls
17 were being made. And once those phone calls were being made,
18 those phone -- those people on the other end started making
19 other phone calls and this humongous web of phone calls was
20 created by Patrick Kelly that night.

21 He made a phone call and texted a former girlfriend
22 who lived not too far away from his home. And her uncle -- her
23 family had a history of police officers. One was a retired
24 sergeant. And within minutes of this event happening, she,
25 along with her retired Chicago Police Department uncle, showed

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1 up on the scene, and the uncle was talking to Chicago police
2 officers about what was happening.

3 But the lies these officers made under oath to hide
4 the truth. The detectives, the detectives who arrived on scene
5 after the first responders did who changed the designation of
6 the scene from an attempt homicide to an attempt suicide
7 without conducting any investigation.

8 Now, I will give you this, that during the course of
9 this trial, if it is your belief that the interview that the
10 detectives made with Patrick Kelly after this event within
11 hours was sufficient investigation, then you can accept that
12 that's what the designation change was made of. That's it.

13 There was no other evidence that the detectives made
14 to change the designation from an attempt homicide to an
15 attempt suicide other than Patrick Kelly saying Michael LaPorta
16 shot himself. That's it.

17 Because the first responding lieutenant on the scene,
18 Thomas McNicolas, do you know what he said? He said, This
19 needs to be investigated as an attempt homicide so that we get
20 as much information as possible from the top down. But then
21 when the detectives come, the scene gets released to them.

22 And then also to the sergeants in Area South who
23 wanted to make sure that Patrick Kelly was from a family of
24 police officers because he was -- he was in what was called an
25 interview room. He didn't go in the lockup when they brought

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1 him to Area South after he was arrested. They put him inside
2 an interview room.

3 And eventually you'll hear the officer -- the
4 sergeants came in, and Kelly demanded that they call his
5 father, who also is an ex-Chicago police officer, and that they
6 call his attorney.

7 And before the officer said that, he asked Patrick
8 Kelly, "Is your father police?" And Patrick Kelly said yes,
9 that he's retired. The phone calls and text messages I
10 mentioned earlier can be seen here. I didn't know we had the
11 clip.

12 (Video recording played in open court.)

13 MR. ROMANUCCI: So when you combine so far the events
14 from this night, even just from that early part of it, from
15 4:30 in the morning until just a little bit after 7:00 a.m.,
16 you can see what's happening. Dozens of calls and texts being
17 made and sent after the incident to numerous witnesses.

18 The calls and texts that were from and to Kelly's
19 phone, hopefully we'll be able to have something larger for you
20 to see later on. But you can see that in the middle there in
21 the third column from the left are two 911 calls, and you can
22 see that the first one went in at about 4:37 a.m. and lasted
23 for about 113 seconds.

24 Then the second one came in approximately maybe about
25 a minute later and 247 minutes, and then you'll have

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1 explanation about the phone records where you see the duration
2 after the 911 calls of zero. Those are text messages being
3 sent. So the zeros are text messages. And then you can see
4 that there are calls being made to and from his phone over a
5 certain period of time all the way into the 5:00 o'clock
6 morning hour.

7 And that is the web that began by Patrick Kelly. He's
8 in the middle. I don't have a pointer here, but he's in the
9 middle right there. And those are just the phone calls that
10 were made by Patrick Kelly to and from.

11 And then Melissa Spagnola is the girlfriend, and you
12 can see that one phone call made out at 5:01 a.m. from Patrick
13 Kelly then resulted in all of those calls made by her to him
14 and then out into the web.

15 So this case has many issues for you to decide, but
16 there are five main categories which it rests upon. And I'm
17 going to give you those -- those broad -- broad scope
18 categories right now so you can keep these in mind as the case
19 progresses.

20 The first one is whether the City had an adequate
21 mechanism to detect police officers who were not fit to be
22 police officers, the one that we're referring to as the early
23 warning system.

24 The second one is whether the City had a code of
25 silence, which was the cause of this needless harm. The third

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1 was whether the City should have terminated Patrick Kelly at
2 any time before January 12, 2010, so that he could not have had
3 a gun or bullets to shoot with.

4 Four, whether the City should have been disciplined --
5 or should have disciplined Patrick Kelly for his repeated acts
6 of misconduct before so that he knew that there were
7 consequences for punishment for his misconduct. And five,
8 whether the City should have investigated Patrick Kelly for
9 those repeated acts of misconduct.

10 Ladies and gentlemen, we are very confident that we
11 have overwhelming evidence that Patrick Kelly shot Michael
12 LaPorta. But we are going to show you that it was the City's
13 actions based upon these issues here which caused this needless
14 harm.

15 This is all the moving force is because you're going
16 to hear that term used throughout this case. You're going to
17 hear the City say to you, we were not the moving force in the
18 cause of these injuries, but indeed, the opposite is true. We
19 will show you that the moving force is nothing more than a
20 direct link. It is the cause for something to occur.

21 The City's policies of not disciplining and not having
22 an early warning system ultimately were the moving force behind
23 this tragedy and the link which led to Michael LaPorta being
24 shot. So simply, had Patrick Kelly been disciplined or caught
25 as one of these repeaters, had the City been transparent in its

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1 investigations of Patrick Kelly, not favored police officers
2 treated all equally, as I had said before, I would not be
3 standing here today in the well of this courtroom speaking to
4 you about Mikey LaPorta.

5 Patrick Kelly would have been stripped of his police
6 powers and knocked off the force years ago. An average citizen
7 not protected by the code of silence would not have been
8 afforded these same protections Kelly has and had, and that
9 will be evident throughout this case.

10 What will we have to show you in order to prove our
11 issues? That's very important for you. Because at the end of
12 this case, his Honor will give you instructions, very detailed
13 instructions. But I want to explain to you a little bit about
14 what those unconstitutional policies were because you're going
15 to need to keep those in mind as the case develops.

16 So we have to show you by a preponderance of the
17 evidence -- and I'll explain that to you, too. There's a lot
18 that you're hearing today already. But we have to show to you
19 that the City of Chicago had an unconstitutional policy,
20 practice or custom.

21 Another word is did they have a culture. Was there
22 something that they did repeatedly which created this custom.
23 And what we're saying, if you see the screen in front of you,
24 that that unconstitutional policy, practice or custom caused
25 Michael LaPorta's injury.

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1 Now, you'll see those five issues that we just showed
2 you in the prior screen, they're going to come up right here
3 one at a time. Those are the five issues right there, the
4 early warning system, the code of silence, the failure to
5 terminate, the failure to discipline, failure to investigate.

6 And what you're going to hear is that in order for
7 Michael LaPorta to prevail in this case, we need not show you
8 that all of those happened. We only need to show you that one
9 of them happened. And so if one or all of these was the moving
10 force, if you find that one or all of these was connected to
11 Michael LaPorta's injury after his Honor instructs you, you
12 will be able to find and prevail in favor of Michael LaPorta.

13 By the end of this case, you will have learned that
14 the City of Chicago and its police department keeps a set of
15 rules, both written and unwritten. For officers who have been
16 alleged to commit crimes and another for those who are not
17 police, and that's what's known as the code of silence or the
18 Thin Blue Line.

19 That is the cause and the moving force, the driving
20 force, we believe, which is the link of unnecessary harms when
21 a blind eye is turned from illegal conduct. It protects and
22 shields police officers from accountability and allows them to
23 act with impunity. Again, no fear and no consequences.

24 We have taken the opportunity during the course of
25 this case to hire experts where we have asked them to look at

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1 either evidence or look at depositions, look at photographs and
2 look at data, data that comes from the City of Chicago. And
3 one of those experts you'll hear from is Ed Rothman. He's a
4 statistician.

5 He's going to testify that a small percentage of
6 officers get an extraordinary number of complaints filed
7 against them. Officer Kelly is one of those extraordinary
8 officers. You'll hear that during the time period that he was
9 a police officer before this event occurred, in those five
10 years, he was in the top five percent of offenders, meaning
11 that 95 percent of other officers behaved better than him.

12 And that's going back to what I said earlier. We have
13 respect for the good officers. But the ones that are bad, the
14 ones that should be caught, that's what the City didn't do
15 here. It failed to do it.

16 You won't just have one expert to believe. While it's
17 true we did retain this expert, you'll hear more about numbers.
18 You'll hear from a City Council member, Alderman Joseph Moore.
19 He will testify that the code of silence is a reference to the
20 belief that officers have an understanding amongst each other
21 that they will not report misconduct or rat on each other.
22 That's his definition of the code of silence.

23 We also have other methods to bring you evidence that
24 a code of silence existed in the City of Chicago. Remember
25 earlier I said it just didn't exist for a year or two, but it's

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1 been a decades-long culture? We have some evidence to bring to
2 you. And one of those is through what's called a Police
3 Accountability Task Force Report. This is a commission that
4 our mayor, Mayor Rahm Emanuel, actually asked for.

5 He asked for this after certain events of horrible
6 police misconduct occurred in this City in 2015. He wanted a
7 top-down overview of the Chicago Police Department. And what
8 he did, he commissioned a task force, and this task force
9 issued its report in April of 2016.

10 And the relevant finding to this case that the Police
11 Accountability Task Force found that the City of Chicago
12 maintains a code of silence not for years, but as a
13 decades-long culture.

14 In January of 2017, just this year, the Department of
15 Justice from Washington, DC, came into this City, and they also
16 investigated the Chicago Police Department. And they conducted
17 a wide-ranging investigation of the police department.

18 But what was relevant about their findings to this
19 case, they found the same thing that the PATF found, that the
20 City of Chicago maintains a code of silence for years and years
21 and years, for decades.

22 And finally we have Mayor Rahm Emanuel himself. In
23 December of 2015, the day that he announced the Police
24 Accountability Task Force, he also had some words with respect
25 to the code of silence. And Mayor Rahm Emanuel spoke these

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1 words to the City Council in December of 2015. "That the
2 problem is sometimes referred to as the Thin Blue Line. The
3 problem is other times referred to as the code of silence. It
4 is this tendency to ignore. It is the tendency to deny. It is
5 the tendency in some cases to cover up the bad actions of a
6 colleague or colleagues. Permitting or protecting even the
7 smallest acts of abuse by a tiny fraction of our officers leads
8 to a culture where extreme acts of abuse are more likely."

9 Ladies and gentlemen, that's exactly what this case is
10 about. A small group of police officers where one event after
11 another after another increases in intensity. And that's why
12 the City is responsible for police officers' private life when
13 he shoots somebody inside the privacy of his own home on
14 January 12th at 4:30 in the morning.

15 They permitted and protected Officer Kelly's repeated
16 acts of misconduct, and it led to an extreme act of abuse. The
17 City allowed a known violent police officer to retain his
18 service weapon to shoot a civilian when they knew he was
19 dangerous.

20 So what could have prevented this? An early warning
21 system, one that actually worked, one that actually was in
22 effect, not just written on paper. One that just didn't pay
23 that lip service. Because if it's on paper and the rules
24 aren't applied, well, then it doesn't matter.

25 As a citizen, if you see someone repeatedly running a

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1 red light and never getting ticketed, that red light's going to
2 continue to be run over and over and over again. That's what
3 happened here. Patrick Kelly repeated acts of misconduct over
4 and over again.

5 An early warning system which identifies unfit police
6 officers is a mandatory and critical system that keeps us all
7 safe because it is the City that gives the power to these
8 officers, and it's also their responsibility to oversee them.
9 A proper early warning system identifies officers like Kelly.

10 It identifies instances of code of silence, and it
11 identifies the unconstitutional behaviors that we're discussing
12 here today. This early warning systems make sure that not only
13 does the City hire officers who are qualified, but then it
14 takes decisive action on those who are dangerous.

15 In order to understand the code of silence and these
16 early warning systems a bit better, we're also going to call an
17 individual to the witness stand by the name of Lou Reiter. Lou
18 Reiter is an expert. We asked him to review records in this
19 case.

20 And he has served on the Los Angeles Police Department
21 for over 20 years in every position from patrol all the way up
22 to deputy chief of Los Angeles. There may not be anyone more
23 qualified to discuss the policies and practices of the Chicago
24 Police Department than Mr. Reiter in this country.

25 He has testified in hundreds of cases regarding

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1 hundreds of police departments, reviewed thousands CRs even
2 from just this City alone and has testified and seen police
3 departments in almost every country -- every state in this
4 country. For the past 30 years, his job has been to examine
5 police departments, period.

6 So Mr. Reiter's going to explain the devastating
7 effect the code of silence can have on a police department. So
8 he'll explain to you that it creates a mindset of impunity in
9 its officers. So if there's a code of silence in place where
10 officers know that they'll be protected either by their own or
11 their superiors or by the City, which is what we're saying, it
12 creates officer impunity.

13 He'll also tell you that if there's a code of silence,
14 it leads to constitutional violations such as the one that I
15 told you earlier. And so what happens? Unless you have an
16 early warning system or you discipline or you investigate, the
17 code of silence will continue.

18 And the only way to stop the code of silence is to
19 stop the impunity and the constitutional violations. That's
20 the only way to do it. That's what he's going to explain to
21 you.

22 These systems, whether they are called early warning
23 systems or early intervention systems they're all -- they're
24 implemented all throughout the country. It is standard
25 procedure for police departments to have some way to track

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1 their officers that had allegations of misconduct. So the City
2 will tell you about the systems that they believe they had in
3 place that worked, that we say that they did not work, if they
4 were simply items on paper.

5 But some of them are BIS, which you've heard, which is
6 Behavioral Intervention System. Another one is PC, which is
7 Personnel Concerns. Another one is NFID, which is -- I'm
8 sorry, NDFP, which is non-disciplinary findings, and then FFD,
9 which is fitness for duty.

10 These are all plans that the City says it had in
11 place. And you'll hear that from Mr. Reiter, and he'll explain
12 that these programs, none of them were sufficient. By the end
13 of this trial, it will be obvious because the officer in this
14 case, Officer Kelly, was allowed to continue to be an officer
15 even after all the allegations he had against him.

16 In fact, the evidence will show that by 2007, the
17 systems the City had in place, the ones that I just told you,
18 well, they were barely being used because nobody else was being
19 trained on them. And that's what some of those earlier people
20 said, Well, I wasn't even trained on them.

21 You saw earlier that in five short years as an
22 officer, at least 18 citizens complained against him ranging
23 from people who said he committed domestic battery, pointed
24 guns at people's head threatening to kill them, using offensive
25 and vulgar language towards people or was otherwise violent

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1 while being an admitted alcoholic, all during the time he owned
2 a service weapon that the City said he could legally carry.

3 And those highlighted boxes are the allegations that
4 we believe showed where he used force, whether he was on duty
5 or off duty. And it doesn't stop there because right there it
6 stops at No. 18. I already told you about No. 19, which is
7 this one.

8 Well, it continued on because Patrick Kelly remains a
9 Chicago police officer, and he has had another nine CRs against
10 him since that time. He's still a Chicago police officer.

11 On the ones that you see in front of you, not once was
12 he disciplined, nor was there any evidence that he was ever
13 enrolled in any of the systems and programs the City had in
14 place for even officers who feel that they needed it because of
15 the stress of being a police officer.

16 Folks, ladies and gentlemen, there's no point in
17 having these programs in place unless they're used as they were
18 designed to. You will hear overwhelming evidence that this
19 officer did not have the demeanor, disposition or temperament
20 to be an officer sworn to protect and serve.

21 What all of this adds up to, as you may be wondering,
22 is what happened on January 12, 2010. There will be a lot of
23 focus on that date throughout this trial, and rightfully so.
24 Because there should be. That's why Mikey is here today.

25 Why does Patrick Kelly's past even matter? It matters

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1 because his past is the evidence which we will show which the
2 City is at fault for. The City had a chance to separate itself
3 from Patrick Kelly, not only after he beat his girlfriend, but
4 after he did the same to her brother, but also after Jesus Rios
5 and after any one of those other violent incidents that he had
6 all before this one here.

7 Had he been convicted, he never would have been able
8 to possess a handgun or the bullets to put in that gun ever.
9 If you're a police officer and your gun is taken away, it's a
10 death sentence. That's what the rules say. If you cannot
11 carry a gun, you cannot be a police officer. You become a
12 civilian. I mean, he couldn't even be an armed security guard.

13 You'll hear today that federal law mandates that any
14 individual convicted of domestic violence, whether a
15 misdemeanor or a felony, is not allowed to own a gun, and there
16 are no exceptions for police officer. And that federal law is
17 called the Lautenberg Act.

18 Had the complaint of Officer Kelly's domestic assault
19 against his girlfriend been sustained and had it been referred
20 to the Cook County State's Attorney, been arrested and charged,
21 this event might never have happened. But the Chicago Police
22 Department instead chose to turn a blind eye because the
23 consequences of him being arrested and then referred for
24 prosecution would have been devastating to him.

25 And he remains on the force. The rules say that an

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1 officer must be above reproach. Even after Patrick Brogan,
2 after he got in that fight with Patrick Brogan, the City will
3 say, Well, we're not responsible for Patrick Kelly's behavior
4 with Patrick Brogan because Patrick Brogan is the one who
5 instigated it.

6 But the rules say that an officer always has to be
7 above reproach. They have to render the highest order of
8 police service at all times. They had another chance when he
9 was sued for placing his service weapon up against Jesus Rios'
10 head, threatening to kill him.

11 They had another chance after he called a suspect, an
12 African-American person a derogatory name that starts with the
13 "N" word. And after the countless violent arrest, the threats
14 to plant evidence and the list goes on and on, they never took
15 the chance that they had to separate themselves from this
16 officer.

17 Finally, they had another chance to separate
18 themselves from Patrick Kelly after he shot Michael LaPorta,
19 after he admitted to his doctors that he was an alcoholic. And
20 you'll hear evidence and you'll learn that he's still employed
21 by the Chicago Police Department. And as I told you, now he's
22 accumulated an additional eight or nine complaint registers
23 even since this time.

24 We will prove this case to you so that you will be
25 able to reach a verdict of liability against the City at the

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1 end of all the evidence by a preponderance of the evidence.
2 And again, his Honor will instruct you as to what that burden
3 is. But keep in mind that when we say to you that we must
4 prove, that we must prove unconstitutional policies were the
5 ruling force in this particular incident for these issues, when
6 I say proof, his Honor will instruct you that proof is almost
7 an analogy of a football game.

8 If you carry the ball over the 50-yard line, 50 yards
9 and one inch, that's the proof. If it goes to the 60-yard
10 line, 70, 80, 90, that still -- still we sustain our burden of
11 proof, which is a preponderance of the evidence. It's not the
12 one that we hear on TV all the time, beyond a reasonable doubt.

13 So preponderance of the evidence standard, some people
14 also describe it with the scales of justice. So if Lady
15 Justice were holding the scales and they were equal, which is
16 how you should start this case, is on equal footing. And as
17 you begin to judge the evidence, those scales will begin to
18 tip.

19 And if they tip and they stay there, that's who you
20 will find for at the end of this case, whether it will be for
21 Michael LaPorta or whether it could be for the City of Chicago.
22 And if the scale is tipped that much by the time that we're
23 done presenting the evidence, both sides, that's who you will
24 find for. That's our burden of proof. Not the beyond a
25 reasonable doubt, which is the much heavier and stronger

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1 verdict.

2 You will hear from the City about the rules that it
3 had in place and that many of the rules were written for the
4 officers, but they were protected by the Fraternal Order of
5 Police. That's the union. That's the union that the City had,
6 and they made concessions to that union in exchange for salary
7 reductions.

8 Joseph Moore, the City alderman I told you about,
9 he'll come in and tell you that many, many times we had to make
10 concessions to the union in exchange for lower salary. So they
11 gave the police officers greater protections such as the ones
12 that you'll hear in this case so that we could pay them less
13 money. That will be his testimony.

14 So the City will tell you that we have rules. We
15 discipline officers. We don't condone a code of silence. And
16 they're going to point to their rules. Again, the rules that
17 police officers have is Rule 6, they can't disobey any order;
18 Rule 14 which is known as "the lie you die" rule. Because if
19 you make a false report of any kind, you should be separated.
20 And then Rule 22, failure to report to the department any
21 violation of rules.

22 I would expect -- I would expect the City to point to
23 those rules and tell you that they have them, and they should
24 tell you those rules. But they don't follow them. They're not
25 enforced. So there's no choice but to deny because they have

Opening Statement - Plaintiff

1 to deny because there is no writing, there is no rule that says
2 don't partake in the code of silence. Because if it did, then
3 it wouldn't be the code of silence.

4 Indeed, it is an unwritten rule that has been in
5 practice for decades. It's never discussed amongst the police
6 and denied amongst all of them. You'll hear testimony from
7 people that will be asked the question, "What is the code of
8 silence?" And you may hear a variety of answers.

9 Some of them will say these are police officers. Some
10 will say, "Well, I've never heard of it," or they'll say, "I'm
11 not familiar with it," or they'll say, "Wasn't that a Chuck
12 Norris movie?" Those are some of the varying responses that
13 you'll get to the code of silence.

14 Some of them will tell you that they've heard about
15 it, and some will give you the answers that I just gave you.
16 It is an unwritten rule where officers do not betray their
17 brothers in blue. That in and of itself is a moving force and
18 the customs and habits of Chicago police officers and how
19 they -- how they interact with members of the public who are
20 not their own.

21 The evidence today will also show that the
22 investigators at the scene missed a lot of evidence, crucial
23 evidence, evidence that could have told us what really happened
24 that night. But they either chose to ignore or just not
25 investigate it.

Opening Statement - Plaintiff

1 So there's a lot of evidence. And again, this is just
2 some of the evidence that we believe the evidence will show
3 that was missed. First of all, there was a fleece jacket that
4 Officer Kelly was wearing when his mugshot was taken at about
5 12:00 p.m. or 1:00 p.m.

6 That fleece was never tested. It was never
7 inventoried. It was never checked for blood or gunshot
8 residue. The City will claim that it was what's called bum's
9 clothing, that it was given to Patrick Kelly as a courtesy
10 because they took his other clothes.

11 Officer Kelly's socks. Now, Mikey LaPorta's clothes
12 were inventoried that night. The Chicago police went to the
13 hospital and they took all his clothes, and they inventoried
14 the socks. But Officer Kelly was found not to be wearing socks
15 in January, in the month of January.

16 I can't tell you and there will be no answer whether
17 or not he was wearing socks, but nobody asked the question why
18 not. Did he change them or did he not have any on? His
19 laundry -- because Mikey and Pat Kelly were the only ones in
20 the house that night, there's no evidence in the record and the
21 detective file that anybody went and searched the laundry
22 machine or the dryer for either wet clothes or washed clothes.

23 Blood on clothing. The 911 call, the operator told
24 him put pressure on him. And Kelly said, "I am." Well, there
25 was no blood on Patrick Kelly's clothing, none whatsoever,

Opening Statement - Plaintiff

1 except for one small field of blood that our experts found, not
2 theirs. Our experts found a small, very faint field of blood
3 right around his left knee. That's it. There was no other
4 blood.

5 And this is despite the fact that you're going to hear
6 evidence of how Patrick Kelly says Mikey shot himself, that he
7 was within feet of him when the gun discharged, and there's yet
8 no blood. And he was applying pressure on him, and there's no
9 blood on him anywhere.

10 Officer Kelly's phone and text. Those kind of go
11 together. Because when the detectives were on scene --
12 actually the forensic investigators were there along with the
13 detectives. And one of the forensic investigators, this FI
14 Dunigan, he collected the two phones. There were two phones
15 that he picked up. One was Kelly's and one was LaPorta's, and
16 he gave them to Detective Weber.

17 And what happened to those phones? LaPorta's was
18 placed in the inventory and was scrupulously photographed. All
19 of the text messages were photographed. His phone records were
20 subpoenaed.

21 Kelly's phone went back to Kelly. Those text messages
22 that I told you about, the City can't do it, and I won't be
23 able to ever, ever explain to you what was in those text
24 messages. They're gone.

25 Fingerprints on the gun. If this were the real gun,

Opening Statement - Plaintiff

1 Patrick Kelly states, his testimony is that Mikey LaPorta held
2 the gun in his left hand -- and please excuse -- held the gun
3 in his left hand, raised it, put it up to approximately here,
4 held it at this kind of angle and pulled the trigger twice.
5 Click, nothing happened. Click, the second time the gun went
6 boom.

7 Holding the gun like this, the gun was super-glued by
8 the Illinois State Police, which is one of the most sensitive
9 forms that you can actually put on anything to determine
10 whether or not it was -- left any latent fingerprints. None
11 were able to be identified.

12 Next. Oh, no tissue, no blood on the gun. So the way
13 Kelly says it happened, it happened like this. It happened
14 like this. There wasn't any blood found on the gun. There was
15 no tissue. There was no brain matter found on the gun. There
16 was nothing at all.

17 But you're going to hear something else about this gun
18 which is very disturbing. The evidence will show that in 2013,
19 the gun was released back to Patrick Kelly before this case was
20 over, before we could get our hands on it to test it like we
21 did with the clothes. We were never given the opportunity to
22 determine if there was blood or tissue on the gun through our
23 own testing.

24 Gunshot residue. You would think that if the gun was
25 being held in the left hand, the gun was being held in the left

Opening Statement - Plaintiff

1 hand and the trigger was pulled with the left hand, that there
2 will be gunshot residue either on the left hand, on the left
3 side of the neck, or especially the clothing that Michael
4 LaPorta was wearing that night. He was wearing two T-shirts.

5 But instead, there was no gunshot residue found on his
6 left hand, on his left sleeve. No gunshot residue on the right
7 hand. But there was gunshot residue found on Mikey LaPorta's
8 right sleeve. There was one field of gunshot residue found on
9 the right sleeve.

10 By the end of this case, eventually we're going to be
11 able to give you a reasonable explanation as to why there was
12 gunshot residue on the right sleeve. Patrick Kelly, no gunshot
13 residue anywhere.

14 There were no pictures. The forensic investigators
15 who were in there took no pictures of the entire house. There
16 was no pictures of the bathrooms. There's no indication
17 whether or not there was wetness in any of the sinks or tubs or
18 anyone made an attempt to maybe remove particles of gunshot
19 residue or wash blood off of them. Nobody made any indication
20 as such.

21 And then the video. The Chicago Police Department
22 indicates that they put into evidence -- you can see -- an
23 overall and closeup video of scene. OA is overall. CU is
24 closeup video of scene. That's under evidence along with the
25 photos. There's no video that we can show you. It's gone.

Opening Statement - Plaintiff

1 It's either gone or doesn't exist or never taken, despite the
2 fact that the police records show that there was a video.

3 So now imagine if this was an ordinary citizen, ladies
4 and gentlemen. Today the evidence will show that the Chicago
5 Police Department was unable to properly investigate one of its
6 own. And one of the detectives in this case, Henry Barsch,
7 will tell you that when they interviewed Patrick Kelly within
8 an hour of this happening, they believed his story. They said,
9 Oh, yeah, he was very truthful, and that was it. And that's
10 how this case was classified, as an attempt suicide.

11 Each and every piece of evidence listed on that screen
12 could have brought us closer to understanding what happened.
13 Instead, we're left with this. Nothing. Because of the City's
14 failure, because of the City's code of silence, we're left with
15 more questions than answers.

16 But the evidence we do have will show exactly why the
17 City is responsible for the off-duty, alcohol-fueled actions of
18 Kelly that left our client permanently injured. By allowing
19 the code to exist, it gave him the comfort and sense that he
20 could violate people's rights, the sense, the comfort, the
21 feeling that he could lie because he would not be disciplined,
22 and that's the impunity. That was the culture which was
23 encouraged and was the dirty little secret which is always
24 denied.

25 So it was protect and serve. You see that emblem and

Opening Statement - Plaintiff

1 that logo on Chicago Police Department vehicles. Protect and
2 serve. But Patrick Kelly had no fear because he had the band
3 of brothers watching his back. The City created the conditions
4 for this to happen, and they gave him the bravado to act this
5 way because he felt -- he felt no respect for authority.

6 And there are multiple examples throughout this case
7 of his lack of respect and authority towards citizens and those
8 who are closest to him throughout this case. After all, don't
9 forget he had a badge, a gun and a license to kill.

10 You will hear throughout this case that this officer
11 got away with illegal behavior, immoral behavior, reckless
12 behavior, swearing, intoxication while off duty, and he lied
13 and never once was disciplined.

14 Even if they were messing around that night, the City
15 is liable because Patrick Kelly knew that he could mess around
16 and get away with it.

17 MS. ROSEN: Objection, your Honor.

18 THE COURT: That's arguments. Proceed. That's
19 argument.

20 MR. ROMANUCCI: Thank you, your Honor.

21 The City will say that we follow the law, that
22 officers have unions that protect them and that we can't get in
23 the way. That's going to be their argument.

24 Well, that argument makes sense if you don't trade
25 concessions for salary. They did that knowing, and that's

Opening Statement - Plaintiff

1 exactly the protection that officers like Kelly received
2 because of the one-sided collective bargaining agreements that
3 the City negotiated with the union so they could pay officers
4 less money.

5 I'm want to briefly discuss some of the physical
6 evidence -- some of the other physical evidence we have for you
7 before I talk a little bit more about Mikey. Now, we went out
8 and obtained a lot of the physical evidence because the City of
9 Chicago didn't.

10 So we hired the experts such as biomechanical
11 engineers, weapons experts, DNA experts, blood spatter experts.
12 We went and asked the people that we thought that could give us
13 the best types of answers. So this is from -- very briefly,
14 you'll become familiar with it, but this is a sketch of Patrick
15 Kelly's house. And this is what the scene looks like after the
16 shooting occurred.

17 And those A, B, Cs that you see on there will be
18 described to you by Dr. Ziejewski, who's the biomechanical
19 engineer. And he will explain to you the viscosity of fluids.
20 In other words, which way -- how do fluids behave and how do
21 they work when they come out of someone, in this instance, what
22 happens when blood comes out of someone's head.

23 And he'll give you the explanation of what all these
24 patterns are and how they fit into this case. And before you
25 move on to the next slide, you can see the gun, which is at the

Opening Statement - Plaintiff

1 bottom of the picture. And then the holster, which is at the
2 top. That holster also was never checked for fingerprints and
3 was never inventoried. You would think that if the gun was
4 inside the holster, as Patrick Kelly said, that that holster
5 would have been also analyzed.

6 And these are more pictures of the scene. The shoe
7 that was there -- it kind of went by quickly. The shoe that
8 was there was never analyzed as to whether or not it had any
9 blood tracks on it or who it belonged to.

10 And then the next slide, you can see -- you'll see
11 evidence. This one particular officer's holding a tape measure
12 because where it shows 72 in the bottom right, that's a piece
13 of Michael LaPorta's scalp that was found on the opposite
14 window sill. The City of Chicago never undertook any sort of
15 trajectory analysis or even asked why or how did that end up
16 there.

17 Dr. David Balash and Dr. Ziejewski will talk about
18 some of the evidence, and some of the evidence are the injuries
19 that Michael sustained. And here is the angle. Now, I'm not
20 the best person to describe this, but you might be asking
21 yourself, Well, why is the bullet wound on the right side?
22 That's because CT scans, they do their scans in reverse.

23 So you'll -- it will be explained to you that this is
24 actually on the left side of the head. And we've been able to
25 measure that the entry of the angle into Michael LaPorta's head

Opening Statement - Plaintiff

1 was approximately 25-degrees. Well, why is that important?
2 Because we should know. It gets us closer to answering the
3 question whether the gun could have been held at this odd
4 angle.

5 Why is that further important? Mikey LaPorta, he's
6 right-handed. He eats left-handed, but he's an avid -- just
7 avid, avid hunter, gun handler. He owns multiple of them, and
8 he only, only uses his right hand to handle weapons.

9 You'll also hear from Jason Beckert, who will walk you
10 through some of the blood evidence that was found in the
11 analysis done on the clothing recovered. So this is a picture
12 that we were able to obtain that we got. This is not from
13 Officer Dunigan or Weber or Barsch.

14 This is our experts who reviewed the clothing that
15 Patrick Kelly was wearing that night. And the next slide will
16 show you the one field, the tiny, almost invisible field of
17 blood that was found on there on his right knee. There was
18 also one found on his buttocks. That was determined not to be
19 Michael LaPorta's blood.

20 The one on the front was because we actually had
21 Michael LaPorta swabbed for DNA so that we could try and match
22 anything we could to the scene so we could get closer to
23 solving this puzzle. And we found out that the blood on the
24 back does not match, but the one on the front, that one stain
25 on his knee does.

Opening Statement - Plaintiff

1 You may ask yourselves why is Michael LaPorta's family
2 suing? He and his family are suing, they're here in this
3 courtroom because the City of Chicago Police Department, the
4 lawyers, they all deny that they did anything wrong. Not just
5 on January 12th, 2010, but at any time before that.

6 They deny that they violated Mikey's constitutional
7 rights. They deny that his harms could have been prevented,
8 and they continue to deny that they caused any harms. But they
9 also deny that they owe any, any financial responsibility to
10 Michael LaPorta for the harms that were caused that night.

11 But they don't challenge those numbers at all. They
12 may say that the numbers are too high, but they don't bring
13 forth any experts to challenge any of his harms, any of his
14 losses, anything. You are here today because you will be the
15 deciders whether justice will be served.

16 The defense will tell you that no matter what could
17 have happened on January 12th, 2010, nothing could have changed
18 Michael LaPorta being shot, that it would have happened anyways
19 and that they cannot control the independent actions of their
20 off-duty officers.

21 You will see evidence of the code of conduct which all
22 officers must abide by, and you will clearly see that Patrick
23 Kelly's off-duty behavior was the responsibility of the City of
24 Chicago and its police department. Had they acted reasonably,
25 it would not have left Mikey LaPorta paralyzed.

Opening Statement - Plaintiff

1 Mikey LaPorta now will never have the chances that he
2 once thought he was going to have, chances that he probably now
3 will never, ever know. Maybe he'll never be married, his own
4 children, baptisms, graduations and Disney trips.

5 Mikey will never have those opportunities on his own.
6 But what you will hear about Mikey from numerous witnesses is
7 that he is a warrior. He is a fighter. He is loyal and one of
8 the hardest workers that people have ever seen.

9 Before this incident, he worked for his dad. He
10 worked for a company called Bell Paving, which is his dad's
11 asphalt company. And you'll hear from one of his best friends
12 tell you that Mikey was the hardest worker he's ever seen, that
13 he loved work.

14 He and his father, would they butt heads because they
15 worked together? They sure would. But every day, he shows up
16 at work and he did his job. And he loved his work and he loves
17 his family. He's loyal. Despite the fact that his doctors
18 have told him that he will never walk again, Mikey is
19 determined to walk.

20 He tells everyone and anyone he can that he will walk
21 again. And you will hear that he loved life, the outdoors,
22 hiking, fishing, hunting. I told you about hunting. He was an
23 avid hunter. He was an expert with guns and rifles. He owned
24 multiple guns and rifles in his home. He was a safe handler of
25 guns and never, ever cavalier about anything to do with them.

Opening Statement - Plaintiff

1 Patrick Kelly that night has him holding a gun with
2 his left hand, with his left hand. That's an inconsistency.

3 You will hear repeatedly today how he only shot right-handed.

4 Mikey loves his family just as much then as he does
5 now. And that first picture that you saw before I began to
6 talk a little bit more about Mikey, that one right there, that
7 was the last picture of Mikey before he was shot.

8 That was taken just hours before because that picture
9 is the same picture that can be taken almost on every -- on any
10 year on January 11th because it's Big Mike's birthday. And
11 that's Mike LaPorta's dad all the way on the left on the front
12 with the cap. And they eat at the same restaurant every year
13 for his birthday at Palermo's, and that was the four of them
14 together.

15 He tells -- Mikey tells his mother every day, he tells
16 his dad every day how much he loves them. He kissed his mother
17 good-bye every single time. He never missed the chance to do
18 that. So determined is this man to lead his life that another
19 one of his goals you'll hear is to have his own apartment.

20 But again, you will hear from experts that Mikey will
21 likely never, ever live alone. In fact, he will never live
22 alone. His condition is so serious that he needs care 24 hours
23 a day, seven days a week throughout the entire year.

24 If somebody wanted to leave him alone just to go fill
25 up their car with a tank of gas, they can't do that. That

Opening Statement - Plaintiff

1 can't happen because if he needs something, he needs it
2 immediately. It can't happen in a matter of minutes.

3 When he needs something in the middle of the night,
4 because his family sleeps upstairs and they converted the
5 downstairs into his hospital room and his bedroom, he has to
6 call upstairs. When it comes to eating, about the best Mikey
7 can do is feed himself, pretty much like a child in a high
8 chair. If you put food in front of him, he can eat it.

9 So determined is this man that when he was in the
10 emergency room, Dr. Schaeffer, who was his surgeon, told his
11 entire family that Mikey's condition was so grave that they
12 weren't even going to operate on him because he wasn't going to
13 live. Well, he lived, and there he is.

14 Mikey now has few choices left in life, an almost
15 complete inability to control it, but forever dependence on
16 Patti, Mike Senior, and his younger brother Chris. What
17 happens when they are gone is going to be, as you will hear, an
18 unimaginable thought for them, possibly a nursing home.

19 Dr. Senno, one of the experts you will hear from in
20 this case, will tell you the care Mikey gets at home is
21 exceptional. His family takes such outstanding care of him
22 that his life will be prolonged as a result.

23 There will be a reduction in bed sores and infections
24 because of their care, for example. However, that doesn't mean
25 he needs no medical care. In fact, he needs constant medical

Opening Statement - Plaintiff

1 care. And like I told you, the bottom part of his house,
2 that's kind of his now. That's where his hospital room is, and
3 it's all filled with supplies and things that he needs on a
4 daily basis.

5 All of this is very expensive. In order to keep him
6 healthy and alive, it costs money. And it's very expensive,
7 ladies and gentlemen. One of the medical consultants we hired
8 to evaluate his lifetime medical care, Wendie Howland, will
9 tell you that it will cost up to \$20 million for Mikey's future
10 medical care. And that's what it will take to keep him safe.

11 You will also hear that Mikey suffered a work injury
12 in 2007. That required surgery to his neck. And he took some
13 pain medication after that particular injury, but that was in
14 2007. The City wants you to believe that Mikey's pain was the
15 cause for himself -- for him shooting himself on January 12th,
16 2010.

17 And I will claim to you that that is just a fantasy
18 defense, one that will not hold true. Because Mikey was
19 working in between that time, working every day as much as he
20 can.

21 They also claim that he broke up with his girlfriend
22 on the night of January 12th, 2010. His girlfriend was Julie.
23 And they'll tell you that because of that, Mikey was upset,
24 that that was another cause for him holding a gun up to his
25 head and pulling the trigger. And again, I submit to you that

Opening Statement - Plaintiff

1 you will not hear evidence sufficient to make that conclusion
2 at all.

3 You would think that if Mikey had pain for so long and
4 so bad and if he was this upset about a girlfriend breakup or
5 even pain, whichever one happened, that his mom would have
6 known, his dad would have known, his brother. He would have
7 left a note. He would have left a signal or a sign, and there
8 was none of that. He didn't say good-bye to anybody that night
9 forever.

10 So we will be seeking money to compensate Mikey. Our
11 system of justice allows Mikey's parents, as his natural
12 guardians, and also the bank, which is representing Mikey's
13 estate, to seek money damages if he was harmed by the
14 defendant's conduct. Mikey must now live with this condition
15 for the rest of his life because the medical evidence shows he
16 is permanently disabled.

17 What is for sure is that Mikey cannot live on his own
18 as he continues to grow older. He will forever be dependent on
19 his family, and that's the best case scenario that we can
20 probably ever offer him. Mikey and his parents are seeking
21 closure for this portion of his life because the rest of it
22 will be filled with surgeries, adaptations, fittings, medical
23 care. You name it.

24 You may hear and see some things during the course of
25 this trial that may make you uncomfortable about what it takes

Opening Statement - Plaintiff

1 to take care of Mikey. For example, Mikey has to have a bowel
2 program, and the only way that he can have that bowel program
3 is for his mother to take care of it. And she has to remove it
4 every day digitally.

5 Every day she has to fit Mikey with a condom in order
6 for him to go through his catheter program. Every day he needs
7 to be washed and cleaned so that he doesn't get dirty in any
8 way so he reduces the risk of infection.

9 The only way to do that is to carry him around their
10 house in what's called a lift. That's the lift that has to be
11 placed underneath him and then brings him into the bathroom.
12 That's why what this case is about is how much money will it
13 take to make him safe, comfortable and compensated for his
14 harms and restore justice.

15 For the most part, the defendants will not dispute
16 Mikey's harms. As I told you, they have retained no experts
17 nor will they challenge or contradict his medical expenses or
18 his life care plan. They'll tell you that the dollar amounts
19 are too high. It doesn't cost \$20 million to take care of him.
20 Give him less than that.

21 What you will hear is expert testimony from people
22 that we believe are the best in their field at arguing these
23 losses and causations and medical needs. You'll hear from
24 Dr. Schaeffer, Dr. Adair, his speech and physical therapists.
25 They can explain to you directly what it takes to take care of

Opening Statement - Plaintiff

1 Mikey on a daily basis.

2 And you'll also see during the course of this trial
3 what a day in the life of Mikey is like. We're not going to
4 show you a whole day. We're going to show you in condensed
5 form. But you'll see through video evidence what it's like to
6 take care of Mikey on a daily basis so that you can get maybe
7 just a little bit of a feel for what he has to go through every
8 single day in order to stay healthy, alive and even be here on
9 a day like today.

10 One way to explain what Mikey has gone through and
11 what his needs are is through a very simple analysis of what I
12 call ABC. If I had a chart right up here right now and if I
13 wrote the ABCs in a line, I could probably start filling in
14 each and every letter with a harm or a condition that Mikey
15 has, whether it's infection, whether it's paralysis. We could
16 fill in the ABCs. That's how significant his harms are.

17 Not only is Mikey LaPorta permanently disabled, but he
18 also has significant disfigurement. And that disfigurement is
19 from having the top half of his head blown off, which is now
20 covered by a metal plate. He has pain and he suffers, and all
21 of this is lifelong, also.

22 What his family will tell you, what Patti and Chris
23 and his family members will tell you is that he has pain every
24 single day, and sometimes he screams in pain. But Mikey also
25 has deep inner feelings, too. In fact, he has very deep

Opening Statement - Plaintiff

1 feelings.

2 The girlfriend he had the night that this happened,
3 Julie, the girlfriend that the City wants you to believe that
4 he was broken up with that night, well, to this day they still
5 talk every single day.

6 In fact, Julie stayed with Mikey for over six months
7 after this accident and didn't leave him until Big Mike told
8 her that she had to go because there was nothing else that she
9 could do for him and she had to start living her own life.

10 While she stayed with him, she taught him because
11 she's a teacher, and she helped him very slowly get back his
12 ability to speak. Mikey still loves Julie. If he could, I'm
13 sure he would tell you he could marry her, except Julie lives
14 in Texas now, and she's married, but not to Mikey. But it's
15 understood they still get to talk every day, and he gets to
16 imagine that, too.

17 But every single day, this man fights every single day
18 for his life. Dr. Adair is now even counseling Mikey on having
19 children because Mikey insists that his future will be with his
20 own children. When all is said during this trial and I come
21 back to you in closing arguments and I speak to you one more
22 time and ask you for substantial compensation, I'm going to ask
23 you for compensation in excess of \$90 million because that's
24 what it will take to restore justice and fix the harms that the
25 City caused as a result of his unconstitutional violations.

Opening Statement - Plaintiff

1 When I come back to you and talk to you, by that time
2 I will have given you the evidence that you need to feel
3 comfortable awarding him. Your verdict, which is your voice,
4 will be the pronouncement of justice in this case.

5 It will be left to your collective wisdom and judgment
6 in the end to determine whether the defendant's conduct was
7 wrong. If you find it was, you will return a verdict in
8 Mikey's favor. I will ask all of you to keep your commitment
9 and promise that you made to his Honor this morning before you
10 were sworn and after you were sworn that you will listen to the
11 evidence and the words of the witnesses before you make your
12 decisions.

13 We will not ask you to feel sorry for Mikey, but in
14 the end, when you have decided whether Mikey should have
15 control over his life or the City, we'll be here waiting for
16 your verdict either way. Mikey and his family have waited
17 years for this moment. His day is in court now. This is the
18 only chance that he gets at this. There are no second chances.

19 It is the function of the lawyers to bring forth the
20 evidence received to meet the burden of proof. That's our job.
21 Do not hold it against Mikey for how long this trial will last,
22 whether it's three weeks and a day or three weeks and two days
23 or if it does go into that fourth week.

24 We will do our best to respect everyone in this
25 process as we decide which of the 150 witnesses that have been

Opening Statement - Plaintiff

1 looked at in this case and the hundreds of thousands of pages
2 of documents are relevant to you. We believe at the end of
3 this case, we will have brought to you overwhelming evidence
4 that the City is liable for the unconstitutional conduct which
5 was the moving force for Mikey LaPorta's injuries. Thank you,
6 ladies and gentlemen.

7 THE COURT: Ms. Rosen, how long will your opening
8 take?

9 MS. ROSEN: Probably about an hour.

10 THE COURT: I think probably have to -- because
11 obviously we need to take a recess now, and that would probably
12 not conclude so there wouldn't be time to do that tonight. So
13 I think we will suspend. At 10:00 o'clock tomorrow, we will
14 have the opening statement from the defense.

15 So members, try to be back about five minutes to
16 10:00 tomorrow morning, and we'll start promptly at 10:00.
17 You'll hear the opening from the City. Please don't discuss
18 the case and the other don'ts that I gave you. Don't do any
19 independent research. Don't go on social media, et cetera.
20 Have a nice evening.

21 (Jury exits courtroom at 4:06 p.m.)

22 THE COURT: Anybody want to put anything on the
23 record? You're going to go through whatever it is that you
24 have from the other case and show them or whatever it is.

25 MR. ROMANUCCI: I don't. Let me see if I have it. Do

Opening Statement - Plaintiff

1 we have it?

2 MS. ROSEN: Is that the document production, too?

3 It's my understanding there were documents produced and you
4 were provided documents. I'm just asking.

5 THE COURT: We don't need to do that now, but satisfy
6 yourself that you've got everything you should have gotten.

7 MR. ROMANUCCI: Sure. We'll take care of it.

8 THE COURT: Pardon?

9 MR. ROMANUCCI: We'll take care of it.

10 THE COURT: All right. We'll see you at 10:00 o'clock
11 tomorrow --

12 MR. ROMANUCCI: Thank you, your Honor.

13 THE COURT: -- for the City's opening. Thank you.

14 (Adjourned at 4:08 p.m.)

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C E R T I F I C A T E

17 I certify that the foregoing is a correct transcript of the
18 record of proceedings in the above-entitled matter.

19

20 /s/ LISA H. BREITER
LISA H. BREITER, CSR, RMR, CRR
21 Official Court Reporter

November 3, 2017

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